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United States Department of Agriculture

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS¹

A parallel classification by States, showing the comparative progress of each in forestry legislation

NEW YORK

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Compiled by Jeannie S. Peyton, under the direction of Louis S. Murphy, Forest Examiner, in the
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PURPOSE OF COMPILATION.

The compilation of which this leaflet is but a part aims to meet a manifest need of the times for a work of reference by means of which the basic legislation underlying the general forestry, administrative and executive activities of the various States can readily be studied and compared. To this end only such of the State laws as bear more or less directly upon the practice of forestry are here compiled, to the exclusion of all other timber and tree laws, all forest insect and fungus control laws except general provisions, and all transitory provisions

¹ When a State leaflet of the Forestry law series is reprinted for local use, please append thereto the following:

NOTE.—This arrangement of the Forestry laws of is reprinted from "State Forestry Laws," compiled and issued in leaflet form by the Forest Service, U. S. Department of Agriculture. Similar leaflets for other States, so far as available, and information concerning forestry laws generally will be furnished upon request addressed to "The Forester, Forest Service, Washington, D. C."

² In the case of the 1918 legislation, only the text of the conservation law has been used, and that was procured informally in advance of the official publication of the volume of session laws.

of law, including those concerning annual or biennial appropriations. Succeeding issues of each State leaflet, to form a separate series for each State, will serve to keep these fundamental laws up to date and free from encumbrance by obsolete provisions. The laws themselves have been analyzed and classified, in detail, to show the activities of the various officers and governing bodies, as these bear on "Administration," "Fire Protection," "Public Forests," and "Taxation," the text being skeletonized in black-face type and copiously cross-referenced in italic, to aid the rapid sensing of the entire legislation or of any particular part of it. A Table of Acts is appended to each leaflet for the benefit of any who do not have access to the original enactments from which the provisions used in the compilation were taken and who desire to reconstruct them.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted state forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other state officers in connection with forest fires, state and municipal forests, or other state lands, or forest taxation, see Parts II, III, and IV, respectively.)

CONSERVATION COMMISSIONER.

1. "Commissioner" Includes "Commission."

The terms "commission," "conservation commission" and "commissioner," when used in this chapter,¹ * * * shall each mean the conservation commissioner, and * * * [C. L.,² sec. 2; * * * ; L. 1917, ch. 486, sec. 1.]

2. Authorization.

¶1. The conservation department is hereby created and shall have four divisions. The department shall continue to be in charge of a commission³ to be known as the conservation commission which, except as otherwise provided in this chapter, shall have all the powers and be subject to all the duties of the forest purchasing board, the forest, fish and game commission or commissioner, * * * as fixed by law on July eleventh, nineteen hundred and eleven.⁴

¶2. Action is taken by formal order of the commissioner.— * * * wherever by the terms of this chapter

¹ The term "this chapter," as used throughout this compilation, has reference to ch. 647, Laws of 1911, and its equivalent, ch. 65 of the Consolidated Laws, both as amended through 1918 (Reg. Sess.).

² The abbreviation "C. L.," in this compilation, has reference to the short title prescribed for chapter 647, Laws 1911, which reads as follows: This chapter shall be known as the Conservation Law. [C. L., sec. 1.]

³ All suits and proceedings brought upon the order of or against the forest, fish, and game commission, * * * or the forest purchasing board shall be continued by or against the conservation commission * * * but the forest, fish, and game commission, * * * and the forest purchasing board * * * shall continue as now constituted until the appointment and qualification of the members of the conservation commission to be appointed pursuant to this chapter at which time the forest purchasing board shall cease to exist and the terms of office of the forest, fish, and game commissioner and * * * shall expire and thereafter the conservation commission shall be deemed and held to constitute a continuation of the forest purchasing board, the forest, fish, and game commission, * * * and not a new commission for the purpose of succession to all the rights, powers, duties and obligations for the forest purchasing board, the forest, fish, and game commission * * * except as modified by this act, with the same force and effect as if such modification were made without any change in the membership of such commission. [C. L., sec. 10.]

⁴ These powers and duties are now contained in Article IV of the Conservation Law, as amended to date. (See Table of Acts, on p. 38.)

or any other statute, action by the conservation commission is required to be taken by resolution or in any manner by the concurrence of a majority of the members, such action shall be taken by a formal order of such commissioner entered in the records of the conservation department. [C. L., sec. 2; * * * ; L. 1917, ch. 486, sec. 1.]

3. Appointment.

¶1. The commission shall hereafter consist of one member to be appointed by the governor, by and with the advice and consent of the senate. * * * ¶2. **Limitation of time for making appointment.**—A commissioner shall be appointed hereunder within twenty days after the amendment to this section takes effect. [C. L., sec. 2; * * * ; L. 1917, ch. 486, sec. 1.]

¶3. **Eligibility.**—No person shall be eligible to or shall continue to hold the office of commissioner, deputy commissioner, chief of a division or secretary to the commission who is engaged in the business of lumbering in any forest preserve county or who is engaged in any business in the prosecution of which hydraulic power is used or in which water is distributed or sold under any public franchise or who is an officer or holder of the stock or bonds of any corporation engaged in such business within the state. [C. L., sec. 5; L. 1915, ch. 318, sec. 4.]

4. Salary.

The commissioner shall receive an annual salary of eight thousand dollars. [C. L., sec. 2; * * * ; L. 1917, ch. 486, sec. 1.]

5. Expenses.

The commissioner, secretary, deputy commissioner, superintendent of forests, assistant superintendent of forests, chief game protector, deputy chief game protector, * * * shall each have reimbursed to him all actual and necessary traveling and other expenses and disbursements incurred or made by him in the discharge of his official duties. [C. L., sec. 3; * * * ; L. 1917, ch. 486, sec. 2.]

(See also I, 26.)

PART I—Continued.]

6. Bond.

The commissioner, deputy, secretary and each chief of a division shall execute and file with the comptroller a bond to the people of the state in the sum of ten thousand dollars, with sureties to be approved by the comptroller, conditioned for the faithful performance of his duties, and that he will account for and pay over pursuant to law all moneys received by him. [C. L. sec. 3; * * *; L. 1917, ch. 486, sec. 2.]

7. Term of Office.

The regular term of office of the commissioner shall be six years to be computed from the first day of January of the calendar year in which he shall have been appointed. [C. L., sec. 2; * * *; L. 1917, ch. 486, sec. 1.]

8. Removal.

The governor may remove the commissioner for inefficiency, neglect of duty or misconduct in office, giving to him a copy of the charges against him and an opportunity of being publicly heard in person or by counsel in his own defense, upon not less than ten days' notice. If such commissioner shall be removed the governor shall file in the office of the secretary of state a complete statement of all charges made against such commissioner and his findings thereon, together with a complete record of the proceedings. [C. L., sec. 2; * * *; L. 1917, ch. 486, sec. 1.]

9. Appoints a Secretary, Deputy Commissioner, Superintendent and Assistant Superintendent of Forests, and Other Subordinates.

¶1. The commission shall have its principal office in the city of Albany. The commission shall appoint, to hold office during its pleasure, a secretary to the commission at an annual salary of three thousand dollars, a deputy commissioner at an annual salary of six thousand dollars, a superintendent of forests at an annual salary of five thousand dollars, an assistant superintendent of forests at an annual salary of three thousand dollars. * * * ¶2. The commission shall also appoint such other subordinates as shall be needed, to carry out the provisions of this chapter, within the amount appropriated therefor. [C. L., sec. 3; * * *; L. 1917, ch. 486, sec. 2.] ¶3. [The commission is empowered to] Appoint necessary employees to perform such duties as are required by this article.¹ [C. L., sec. 50, subsec. 21; * * *; L. 1916, ch. 451, sec. 1.] *General authorization of employees.* (See I, 12.)

10. Assigns Duties to Subordinates.

The subordinates of the department, except as specially prescribed in this chapter, shall have such powers and shall perform such duties as shall be assigned or required of them by the commission. [C. L., sec. 7; L. 1915, ch. 318, sec. 5.]

General Cross-References.

Other general powers and duties. (See "Administrative Officers' General Powers and Duties," I, p. 5).

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

DEPUTY COMMISSIONER.**General Cross-References.**

Appointment and salary. (See I, 9 ¶1.)

Eligibility. (See I, 3 ¶3.)

Expenses. (See I, 5.)

Bond. (See I, 6.)

General powers and duties. (See I, 10; and "Administrative Officers' General Powers and Duties," I, p. 5.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

SECRETARY.**General Cross-References.**

Appointment and salary. (See I, 9 ¶1.)

Eligibility. (See I, 3 ¶3.)

Expenses. (See I, 5.)

Bond. (See I, 6.)

General powers and duties. (See I, 10; and "Administrative Officers' General Powers and Duties," I, p. 5.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

DIVISION OF LANDS AND FORESTS.**11. Establishment and Jurisdiction.**

¶1. There shall be in the department a division of lands and forests under which shall be administered all laws relating to tree culture and reforestation by the state and to the care and management of such parks, reservations or lands of the state as now are or hereafter shall be placed under the jurisdiction of the commission; * * *

¶2. **The chief and administrative head is the superintendent of forests.**—The superintendent of forests shall be the chief and administrative head of the division of lands and forests. [C. L., sec. 4; L. 1915, ch. 318, sec. 3.]

GENERAL AUTHORIZATION OF EMPLOYEES.¹**12. Employees Authorized and Their Duties Defined.**

Preamble.—For the purposes of administration and to carry out the provisions of this article,² the following employees are hereby authorized and their duties defined. [C. L., sec. 51, preamble; * * *; L. 1917, ch. 266, sec. 2; L. 1918, ch. 421, sec. 1.]

NOTE.—The respective provisions³ specifying these employees and defining their duties are placed under the following headings: "Superintendent of Forests," p. 4; "Assistant Superintendent of Forests," p. 4; "Chief Land Surveyor," p. 27; "Foresters and Assistant Foresters," p. 4; "Forest Pathologist," p. 5; "Chief Railroad Inspectors," p. 10; "Land Clerk," p. 27; "Auditor of Fire Accounts," p. 10; "District Forest Rangers," pp. 8, 9; "Forest Rangers," pp. 9, 37; "Observers," p. 9; "Fire Wardens," p. 9; "Fire-Fighting Laborers and Foremen," p. 10.

¹ See also I, 9 ¶2, ¶3.

² Article IV. (See Table of Acts, on p. 38.)

³ See sec. 51 of C. L., in Table of Acts, on p. 38.)

¹ Article IV. (See Table of Acts, on p. 38.)

PART I—Continued.]

GENERAL PERSONNEL REQUIREMENTS.

13. The Superintendent and Assistant Superintendent of Forests, Foresters and Assistant Foresters are required to be Trained Foresters.

The employees enumerated in subdivisions one,¹ two,² four,⁴ and five⁵ of this section⁹ shall be trained foresters. [C. L., sec. 51, subsec. 15; * * * L. 1916, ch. 451, sec. 1.]

14. The above Officials and Certain Others are Under Competitive Civil Service Classification.

The employees enumerated in subdivisions one,¹ two,² three,³ four,⁴ five,⁵ six,⁶ seven,⁷ eight⁸ of this section⁹ shall be under the competitive civil service classification. [C. L., sec. 51, subsec. 15; * * * L. 1916, ch. 451, sec. 1.]

15. Vacancies in Offices of Superintendent and Assistant Superintendent of Forests are Required to be Filled by Promotion Examination.

The positions enumerated in subdivisions⁹ one¹ and two² shall in case of vacancy be filled by promotion examination. [C. L., sec. 51, subsec. 15; * * * L. 1916, ch. 451, sec. 1.]

SUPERINTENDENT OF FORESTS.

16. Powers and Duties.

¶1. **Is executive head of the division of lands and forests.**—A superintendent of forests [is hereby authorized], who shall, subject to the direction of the commission, administer all of the provisions of this article. [C. L., sec. 51, subsec. 1; * * * L. 1917, ch. 266, sec. 2.] (See also I, 11.)

¶2. **Has police powers.**—The employees enumerated in subdivisions one,¹ two,² three,³ four,⁴ seven,⁷ ten,¹⁰ eleven¹¹ and twelve¹² of this section⁹ shall have the power to arrest without warrant any person committing a misdemeanor under the provisions of this article,¹³ and may take such persons immediately before a magistrate having jurisdiction for trial, and exercise such other powers of peace officers as may be necessary for the enforcement of the provisions of this article. [C. L., sec. 51, subsec. 16; * * * L. 1916, ch. 451, sec. 1.]

Other general powers and duties. (See I, 10; and "Administrative Officers' General Powers and Duties," I, p. 5.)

¹ Superintendent of forests.

² Assistant superintendent of forests.

³ Chief land surveyor.

⁴ Foresters.

⁵ Assistant foresters.

⁶ Forest pathologist.

⁷ Chief railroad inspectors.

⁸ Land clerk.

⁹ See sec. 51 of the C. L., in Table of Act, on p. 38.

¹⁰ District forest rangers.

¹¹ Forest rangers.

¹² Observers.

¹³ Article IV, of C. L. (See Table of Acts, on p. 38.)

General Cross-References.

Appointment and salary. (See I, 9 ¶1.)

Eligibility. (See I, 3 ¶3.)

Qualification and requirements. (See I, 13, 14, 15.)

Expenses. (See I, 5.)

Bond. (See I, 6.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

ASSISTANT SUPERINTENDENT OF FORESTS.

17. Powers and Duties.

Assists, and acts in place of, superintendent of forests when necessary.—An assistant superintendent of forests [is hereby authorized], who shall assist the superintendent of forests in the performance of his duties, and, in the absence or inability of the latter, shall have power to act in his place. [C. L., sec. 51, subsec. 2; * * * L. 1917, ch. 266, sec. 2.]

Other general powers and duties. (See I, 10; and "Administrative Officers' General Powers and Duties," I, p. 5.)

General Cross-References.

Appointment and salary. (See I, 9 ¶1.)

*Qualification and other requirements.*¹ (See I, 13, 14, 15.)

Expenses. (See I, 5.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

FORESTERS AND ASSISTANT FORESTERS.

18. Powers and Duties.

a. Of foresters.—Five foresters [are hereby authorized], who shall perform such duties in reforestation, fire protection, surveys, investigations, preparation of publications and other branches of forestry as may be required. [C. L., sec. 51, subsec. 4; * * * L. 1916, ch. 451, sec. 1.]

(See also I, 10.)

Arrest violators, without warrant, and bring them before a magistrate; and exercise other necessary police powers. (See I, 16 ¶2.)

b. Of assistant foresters.—Such assistant foresters as may be required [are hereby authorized], who shall assist the foresters in their duties, and perform such other duties as may be assigned them. [C. L., sec. 51, subsec. 5; * * * L. 1916, ch. 451, sec. 1.] (See also I, 10.)

General Cross-References.

*Appointment.*² (See I, 9 ¶2, ¶3.)

Qualification and competitive civil service requirements. (See I, 13, 14.)

Expenses. (See I, 26.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

¹ The eligibility restrictions imposed on several officers, including chiefs of divisions, would possibly apply, by inference, to the assistant superintendent of forests, inasmuch as he has the power and authority, under certain circumstances, to act in the place of the superintendent of forests.

² No specific provision is made as to the amount of their compensation.

PART I—Continued.]

FOREST PATHOLOGIST.

19. Duties.

Makes forest pathological investigations and studies.—A forest pathologist [is hereby authorized], who shall examine forest trees with respect to disease, and carry on such studies as may be deemed advisable in connection with diseases attacking or liable to attack forest trees in this state. **Qualification.**—The forest pathologist shall have pursued a thorough course in forest pathology. [C. L., sec. 51, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

Performs such other duties as commission may require. (See I, 10.)

General Cross-References.

*Appointment.*¹ (See I, 9 ¶2, ¶3.)

Competitive civil service requirements. (See I, 14.)

Expenses. (See I, 26.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

ADMINISTRATIVE OFFICERS' ² GENERAL POWERS AND DUTIES.³

20. Empowered to Institute and Conduct Investigative Proceedings.

¶1. The conservation commission shall have power, for the state, to initiate and conduct, of its own motion, any proceeding provided for in any article of this chapter for the construction of improvements or development of natural resources, for the public health or safety or welfare, or any of them, and if a petition is presented by any person or persons or by a corporation, municipal or otherwise, under any such article, the commission may, in its discretion, extend the scope of such proceeding to and including any or all improvements or developments of natural resources which may be done under all or any provision or provisions of this chapter, and if any part of the procedure governing the matters concerning which the petition is presented can not be made applicable in all respects to the subject matter of the proceeding as thus extended, then the procedure peculiar to such additional matters as provided for in this chapter shall be adopted to the extent necessary. [C. L., sec. 20.]

¶2. Any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before the commissioner, the deputy commissioner or the chief of a division, or before any other officer or employee of the department, designated for such purpose by written order of the commission,

¹ No specific provision is made as to the amount of his compensation.

² The several officers who are concerned in these general powers and duties are the commissioner, deputy commissioner (see I, 3, 9), superintendent of forests (see I, 16), and assistant superintendent of forests (see I, 17), and, when specifically provided, such other officers as may be designated.

³ In addition to the forestry duties enumerated, the commission is charged, under a 1917 amendment to the conservation law, with the control of the white-pine blister-rust disease. (See volume of Session Laws of 1917, ch. 283, which amends Art. IV of the Conservation Law by adding thereto section 57-a.)

filed in its office. All investigations, inquiries, hearings and decisions of the commissioner, the deputy commissioner or the chief of a division, shall be and be deemed to be the investigations, inquiries, hearings and decisions of the commission, [Commissioner approves certain orders and decisions.—] and every order or decision made by the commissioner, and every order or decision made by the deputy commissioner or a chief of division and approved and confirmed by the commissioner and ordered filed in the office of the commission, shall be and be deemed to be the order or decision of the commission. [C. L., sec. 6; L. 1915, ch. 318, sec. 5.]

¶3. **Have power to administer oaths.**—The commissioner, deputy commissioner, a chief of division or duly designated officer or employee of the department, shall have power to administer oaths in any proceeding which the commission is required or authorized by law to institute or conduct. [C. L., sec. 14; L. 1915, ch. 318, sec. 10.]

¶4. **Have right of subpoena and other necessary powers.**—The commission shall have power to subpoena and require the attendance in this state of witnesses and the production by them of books and papers pertinent to the investigations and inquiries which it is authorized to make under any article of this chapter, and to examine them and such public records as it shall require in relation thereto, and for the purposes of such examinations the conservation commission shall possess all the powers conferred by the legislative law upon a committee of the legislature or by the code of civil procedure upon a board or committee, and may invoke the power of any court of record in the state to compel the attendance and testifying of witnesses and the production by them of books and papers as aforesaid. [C. L., sec. 24.]

¶5. **Immunity of witnesses.**—No person shall be excused from testifying or from producing any books or papers in any investigation or inquiry by or upon any hearing before the commission or any commissioner, when ordered to do so by the commission, upon the ground that the testimony or evidence, books or documents required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall under oath have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained is intended to give, or shall be construed as in any manner giving, unto any corporation immunity of any kind. [C. L., sec. 25.]

21. Prescribe Rules and Regulations.

¶1. **Preamble.**—The commission shall, for the purpose of carrying out the provisions of this article ¹ have the following power, duty and authority ²: [C. L., sec. 50, preamble; * * * ; L. 1916, ch. 451, sec. 1.]

¹ Article IV of C. L. (See Table of Acts, on p. 38.)

² For these provisions, in full, see sec. 50 of C. L., in Table of Acts, on p. 38.

PART I—Continued.]

¶2. Make necessary rules and regulations¹ to secure proper enforcement of the provisions hereof. [C. L., sec. 50, subsec. 2; * * * ; L. 1916, ch. 451, sec. 1.]

¶3. Record and posting of rules and regulations.—Rules and regulations established by the commission for the enforcement of the provisions of article four of this chapter shall be entered by the commission in its book of minutes and at least three copies thereof posted in public places in the towns in which such rules and regulations apply, at least thirty days before the same shall take effect.

¶4. Criminal liability for violations of rules and regulations.—Any person who violates any provision of any rule or regulation so established by the commission, pursuant to the provisions of this section, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed one hundred dollars or imprisonment for not more than thirty days or by both such fine and imprisonment. [C. L., sec. 33; L. 1912, ch. 444, sec. 4.]

22. Conduct Forestry Investigations.

[The commission is empowered to] Make investigations or experiments with regard to forestry questions. [C. L., sec. 50, subsec. 5; * * * ; L. 1916, ch. 451, sec. 1.]

Same authority is also conferred by I, 20.

23. Cooperate with the Following:

a. With state institutions, boards, etc.: ¶1. General provision.—[The commission is empowered to] Examine the forest lands under the charge of the several state institutions, boards or other management for the purpose of advising and co-operating in securing proper forest management of such lands. [C. L., sec. 50, subsec. 8; * * * ; L. 1916, ch. 451, sec. 1.]

¶2. Pay over to institutions a portion of the proceeds from sale of trees grown at the institutions.—Such portion of the proceeds of the sale of trees grown at state institutions, as the commission determines is equitable, may be paid over to that institution. [C. L., sec. 50, subsec. 9; * * * ; L. 1916, ch. 451, sec. 1.]

Propagate trees for such institutions. (See I 24 ¶3.)

¶3. Special provision for Palisades interstate park.—Nothing in this chapter shall be construed as extending the jurisdiction of the conservation commission over the real or personal property now or hereafter under the control or in the custody of the commissioners of the Palisades interstate park, but said conservation commission is authorized to co-operate with said commissioners of the Palisades interstate park by the joint employment of wardens, foresters and keepers, for the mutual protection of the lands under the jurisdiction of said respective commissions and other state commissions and the preservation of the forests thereon and of the fish and game therein. [C. L., sec. 50, subsec. 31; * * * ; L. 1917, ch. 71, sec. 1.]

b. With private owners.—[The commission is empowered to] Examine private forest lands for the purpose of

¹ The rules and regulations duly adopted by the forest, fish and game commission or commissioner * * * shall continue in full force and effect until otherwise ordered by the conservation commission. [C. L., sec. 13.]

advising the owners as to the proper methods of forest management. [C. L., sec. 50, subsec. 14; * * * ; L. 1916, ch. 451, sec. 1.]

Supply trees from nurseries at cost of production. (See I, 24 ¶2.)

c. With governing boards of counties, cities, towns, and school districts.—*In reforestation work, and furnish trees without charge, if planted as directed.* (See III, 32 b ¶2.)

24. Establish and Maintain State Forest Nurseries.

¶1. [The commission is empowered to] Establish, operate and maintain nurseries for the production of trees to be used in reforestation. [C. L., sec. 50, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

Convict and other institutional labor used. (See I, 25.)

¶2. Purposes, in general, for which the trees may be used.—Such trees may be used to reforest any land owned by the state; supplied to owners of private land at a price not exceeding cost of production; or used for planting on public lands under such terms as may be deemed to be for the public benefit. [C. L., sec. 50, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

¶3. Special provision for propagating trees for state institutions and highway purposes.—[The commission is empowered to] Propagate trees and shrubs for the several state institutions or for planting along improved highways. Reduction in transportation rates.—Any common carrier may transport trees or shrubs grown by the state at a rate less than the established tariff. [C. L., sec. 50, subsec. 10; * * * ; L. 1916, ch. 451, sec. 1.]

25. Employ Convict and Other Institutional Labor for Nursery and Tree Planting Work.

¶1. General authority.—[The commission is empowered to] Employ, with the approval of the superintendent of prisons, convicts committed to any penal institution or, with the approval of the governing board thereof, the inmates of other state institutions, for the purpose of producing or planting trees. [C. L., sec. 50, subsec. 9; * * * ; L. 1916, ch. 451, sec. 1.]

¶2. Special authority.—When desirable for the best interests of the state, as well as the wards thereof, the superintendent [of the Rome State Custodial Asylum], subject to the approval of the board of managers, may grant to groups of inmates in colonies on rented premises or on land owned by the state, parole or leave of absence to do * * * reforestation and forestry work under the direction of the conservation commission, and any expense connected therewith shall be a charge upon the regular maintenance of the asylum. [State Charities L.,¹ sec. 95, subsec. 11; L. 1916, ch. 71, sec. 1.]

26. Reimburse Employees for Official Expenditures.

[The commission shall] Reimburse employees for actual and necessary expenses incurred while upon official business. [C. L., sec. 50, subsec. 30; * * * ; L. 1916, ch. 451, sec. 1.]

(See also I, 5.)

¹ The State charities law is contained in L. 1909, ch. 57, and its equivalent, ch. 55 of the Consolidated Laws.

PART I—Continued.]

27. Collect and Compile Statistics on Forests Products.

It shall be the duty of all manufacturers of timber and consumers of round wood or timber or wood for commercial purposes to report to the conservation commission, annually, when called upon to do so, on blanks furnished by the commission, the amount of round wood or timber used, or lumber manufactured from trees grown in this state, during the calendar year. [C. L., sec. 58; * * *; L. 1916, ch. 451, sec. 1.]

28. Provide Printed Information Concerning Forestry Matters.

[The commission is empowered to] Prepare, print, post or distribute printed matter relating to forestry. [C. L. sec. 50, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

29. Make Reports.

a. Annual report to legislature.—The commission shall annually report to the legislature on or before January fifteenth, with such recommendations as it deems proper, specifying the receipts, expenditures and work of the

department for the preceding fiscal year. Such report shall include a brief description of all lands purchased during the year, and the statistics of various fires, and any trespass upon state lands, and a brief summary of all litigation prosecuted or defended by the commission.

b. Special reports for information of the public.—It shall be the duty of the commission to publish and distribute for public information reports in which shall be briefly set forth the work of the department and of its several divisions. [C. L., sec. 12; * * *; L. 1915, ch. 318, sec. 9.]

30. Have Such Other Powers and Duties as May Be Provided.

[The commission] Shall have such other powers and duties as are provided by law. [C. L., sec. 50, subsec. 29; * * *; L. 1916, ch. 451, sec. 1.]

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

LEGAL PROCEDURE.

Provisions concerning the subject of legal procedure. (See Part II, page 15, and Part III, page 27.)

PART II.—FIRE PROTECTION.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State or municipal forests, see Part III.)

STATE ORGANIZED PROTECTION.**ADMINISTRATIVE OFFICERS' GENERAL POWERS AND DUTIES.****1. In Fire Towns.**

¶1. *Preamble.*—The following classification of districts² is made for the purpose of protecting the forests from fire. [C. L., sec. 52, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. *Conservation commission maintains a forest fire protective system.*—The commission, for the prevention of forest fires and the extinguishment of fires burning or threatening forests, shall, in the fire towns,³ maintain a force of forest rangers, observers and fire wardens. It shall maintain an approved fire protective system, including fire observation stations and other equipment necessary to prevent and extinguish forest fires. *Territory is subdivided into districts, in charge of district forest rangers.*—The territory included within the fire towns shall be divided into five districts, each of which shall be in charge of a district forest ranger. [C. L., sec. 52, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

2. In Other than Fire Towns, where Commission Deems State Organized Fire Districts Necessary.

Establish, equip, and operate observation stations, prepare and post fire notices, and organize a fire force.—The commission may establish a forest fire protective system in such other parts of the state as it may deem necessary

¹ The several officers who are concerned in these general powers and duties are the commissioner, deputy commissioner (see I, 3, 9), superintendent of forests (see I, 16), and assistant superintendent of forests (see I, 17).

² For the three classes of districts, see II, 1, 2, 21b, 22b, 23b.

³ A list of the fire towns referred to will be found in the Appendix, on p. 35.

where there are contiguous areas of forest land aggregating seventy-five thousand acres or upwards. In such regions the commission may establish, equip and operate fire observation stations with the necessary accessories, prepare and post fire notices, organize a fire protective force, [May require the town authorities to perform their forest fire duties.—] and require the town authorities to perform their duties in forest fire protection.¹ May appoint fire wardens when necessary.—If the town supervisor fails to certify to the conservation commission by February fifteenth of any year a list of the fire wardens for such town then the conservation commission may appoint necessary fire wardens. [C. L., sec. 52, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

3. Maintain a Fire Protective System.

[The commission shall] Maintain a system of forest fire protection in the fire towns and such other areas as the commission determines necessary. [C. L., sec. 50, subsec. 16; * * *; L. 1916, ch. 451, sec. 1.]

4. Incur Necessary Expenses for Fire Protection Purposes.

¶1 [The commission shall] Purchase necessary equipment, tools or supplies, employ men or incur other expenses as may be necessary to furnish adequate forest fire protection. [C. L., sec. 50, subsec. 17; * * *; L. 1916, ch. 451, sec. 1.]

¶2. *Interfering with supplies or other material so maintained for purposes of fire protection constitutes a misdemeanor.*—Any person² who molests, injures, removes,

¹ See II, 22b, 23b.

² The term "person," as used in Article IV of the conservation law includes a copartnership, joint-stock company, or a corporation. See Appendix, p. 35.

PART II—Continued.]

destroys, or withholds supplies or other material maintained for forest fire protection purposes shall be guilty of a misdemeanor. [C. L., sec. 63, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

Liability of violators: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

5. Establish and Operate Observation Stations, Telephone Lines, Etc.

¶1. [The commission shall] Establish, maintain, equip, and operate forest fire observation stations, telephone lines, or other structures therefor as the public interest requires. [C. L., sec. 50, subsec. 18; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **Contract for, or purchase, telephone lines, for construction or operation.**—[The commission shall] Make contracts, agreements or purchases either for construction, operation or maintenance of telephone lines for fire protection purposes. **Preferred rates may be granted to the State.**—Any telephone company may grant the state a preferred rate. [C. L., sec. 50, subsec. 19; * * *; L. 1916, ch. 451, sec. 1.]

6. Build Fire Lines, Trails, Roads, Etc.

[The commission shall] With consent of the owner, build or improve fire roads, ditches, trails, or fire lines. **Not liable for trespass.**—No action for trespass shall lie on account of injury to private property on such account, if the act is performed in the protection of the forests from fire. [C. L., sec. 50, subsec. 20; * * *; L. 1916, ch. 451, sec. 1.]

7. Make Working Agreements with Land Owners as to Forest Fire Protection.

[The commission] May enter into working agreements with land owners for the purpose of securing better forest fire protection in the fire towns. [C. L., sec. 50, subsec. 27; * * *; L. 1916, ch. 451, sec. 1.]

Certain Additional Powers and Duties.

Appoint necessary employees. (See I, 9.)

Provide for posting, or distribution of, necessary information concerning forest fires. (See I, 28.)

Include statistics of fires in annual report to the legislature, and publish and distribute special reports for information of the public. (See I, 29.)

Rate forest rangers in three grades. (See A, p. 37.)

Fix salaries of observers. (See II, 12.)

May request comptroller to advance funds for facilitating payment of fire accounts. (See II, 26 ¶2.)

Certify to need for emergency loan for fire protection purposes. (See II, 29 ¶2.)

In fire towns, reimburse persons for fire-fighting expenditures. (See II, 26 ¶3.)

Submit expense accounts of fire towns to boards of county supervisors, for reimbursement of State in respect to towns' share of the expenditures. (See II, 27.)

Make required disposition of moneys received in actions for penalties under Article IV of C. L. (See II, 30.)

Designate persons to issue permits for kindling fires in the open in fire towns. (See II, 31.)

Approve fire protective devices for locomotives operating through forest lands. (See II, 36.)

Have access, for purposes of inspection, to railroad records as to condition of fire protective devices. (See II, 37 ¶1.)

May order to be removed from service any locomotive not properly equipped with fire protective devices, operating in fire towns. (See II, 37 ¶2.)

Require railroads operating through forest lands, to keep their rights of way cleared (see II, 39); *and have discretionary powers as to relieving railroads from this requirement and also from that of maintaining fire patrol along such rights of way* (see II, 40 ¶2).

May request public service commission to determine the adequacy of precautions taken by railroads. (See II, 41.)

Furnish blanks to railroads for reports on forest fires. (See II, 42.)

Approve fire protective devices for portable engines and other steam power plants. (See II, 44.)

May grant extension of time in which to top-lop evergreen trees. (See II, 45 ¶2.)

Institute and conduct proceedings under Article IV of the Conservation Law. (See II, 48.)

May request appointment of a deputy attorney general. (See II, 49.)

Are empowered to issue orders for bringing actions for penalties under the Conservation Law. (See II, 50 ¶1.)

Have authority to compromise cases of civil liability, and may confer the authority upon subordinates. (See II, 53.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

FORESTERS AND ASSISTANT FORESTERS.

Powers and Duties.

a. Of foresters:

Perform such fire protection work as may be required. (See I, 18a.)

Arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16 ¶2.)

b. Of assistant foresters:

Assist the foresters in fire protection work. (See I, 18b.)

c. Perform such other duties as the commission may require.

 (See I, 10.)

d. Liability for failure to perform duties: Criminal.

 (See II, 54, 55.) *Civil.* (See II, 57.)

DISTRICT FOREST RANGERS.

8. Salary.

Five district forest rangers [are hereby authorized], who shall receive a salary of eighteen hundred dollars per annum, and * * * [C. L., sec. 51, subsec. 10; * * *; L. 1918, ch. 421, sec. 1.]

9. Powers and Duties.

a. **Have charge of fire districts comprising portions of fire towns.**—* * * each of whom [district forest rangers] shall have charge of a certain portion of the fire towns, to be known as a fire district, for the purpose of securing forest fire protection and preventing trespass upon state land. [C. L., sec. 51, subsec. 10; * * *; L. 1918, ch. 421, sec. 1.]

PART II—Continued.]

b. Employ fire-fighting laborers, foremen, and teams—
Compensation.—District forest rangers, forest rangers, observers, fire wardens and game protectors or any other officer charged with the duty of fire fighting may, when necessary, employ men who shall be paid at the rate of twenty cents per hour and teams to fight forest fires, and also engage other men to be known as foremen for particular fires to direct the work of men engaged in fighting such fires. Such foremen shall be paid at the rate of thirty cents per hour for time actually employed. **Other expenses authorized.**—These employees may incur other necessary expenses in connection with extinguishing forest fires. **Power to summon assistance.**—They shall have the power to summon any male person of the age of eighteen years and upwards to assist in fighting such fires, and any person so summoned shall forthwith proceed to help extinguish the fire as directed by the person summoning him.¹ [C. L., sec. 51, subsec. 14; * * * ; L. 1918, ch. 421, sec. 1.]

Arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16 ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

General Cross-References.

Appointment. (See I, 9 ¶2, ¶3.)

Expenses. (See I, 26; II 9b.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

FOREST RANGERS.²**10. Salaries and Ratings.**

NOTE.—The text of this section has been transferred to the Appendix (p. 37) for the reason that it has been considerably expanded by a 1918 amendment, which was received too late to be incorporated in the body of the compilation.

11. Are not Subject to Civil Service Classification.

Those persons employed under subdivisions eleven,³ twelve⁴ and thirteen⁵ of this section, who are temporary, occasional or emergency employees, shall not be under competitive civil service classification. [C. L., sec. 51, subsec. 15; * * * ; L. 1916, ch. 451, sec. 1.]

Powers and Duties.⁶

Prevent and extinguish forest fires. (See II, 1.)

Employ fire-fighting laborers, foremen, and teams, and incur other necessary expenses. (See II, 9b.)

Impress assistance. (See II, 9b.)

¹ For penalties for failure to comply with summons to assist, see II, 54, 55, 57, and the Appendix, p. 36 (Penal L., sec. 1900).

² See also "Forest Rangers and Assistants," under "Town Organized Protection," p. 11.

³ Forest rangers.

⁴ Observers.

⁵ Fire wardens.

⁶ Forest rangers are also required to enforce all fish and game laws. (See, in volume of Session Laws, sec. 169 of C. L., as amended by ch. 521, L. 1916.)

Arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16 ¶2.)

Approve compromises of civil liability, upon order of commission. (See II, 53b, a ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

General Cross-References.

Appointment. (See I, 9 ¶2, ¶3.)

Expenses. (See I, 26; II, 9b.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

OBSERVERS.**12. Salary and Expenses.**

¶1. Such observers [are hereby authorized] as may be required * * *, [¶2.] to be employed at a monthly compensation of not exceeding eighty-five dollars including allowance for expenses. **Commission determines compensation.**—The conservation commission shall fix and determine the compensation of these employees. [C. L., sec. 51, subsec. 12; * * * ; L. 1918, ch. 421, sec. 1.]

(See also I, 26; II, 9b.)

13. Powers and Duties.

Operate forest fire observation stations.—[Observers are] to operate the forest fire observation stations, * * * [C. L., sec. 51, subsec. 12; * * * ; L. 1918, ch. 421, sec. 1.]

Employ fire-fighting laborers, foremen, and teams, and incur other necessary expenses. (See II, 9b.)

Impress assistance. (See II, 9b.)

Arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16 ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

General Cross-References.

Appointment. (See I, 9 ¶2, ¶3.)

Are not subject to civil service classification. (See II, 11.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

FIRE WARDENS.¹**14. Rate of Compensation.**

a. In fire towns.—They [fire wardens] shall be paid at the rate of thirty cents per hour for time actually employed. [C. L., sec. 51, subsec. 13; * * * ; L. 1918, ch. 421, sec. 1.]

Authority for incurring fire-fighting expenses. (See II, 9b.)

Are reimbursed for necessary expenses. (See I, 26.)

b. In state organized fire districts.—Is prescribed by town supervisors. (See II, 23.)

15. Powers and Duties.

a. In fire towns.

Extinguish fires.—Necessary fire wardens [are hereby authorized], who shall, when fires are actually burning,

¹ See also "Fire Wardens" under "Town Organized Protection," p. 11.

PART II—Continued.]

have power and authority to take steps to extinguish fires. [C. L., sec. 51, subsec. 13; * * *; L. 1918, ch. 421, sec. 1.]

Employ fire-fighting laborers, foremen, and teams, and incur other necessary expenses. (See II, 9b.)

Impress assistance. (See II, 9b.)

Perform such other duties as the commission may require. (See I, 10.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

b. In State organized fire districts.—None are specifically prescribed. (See II, 23.)

Appointment.

a. In fire towns.—Are appointed by commission, under its general authority. (See I, 9 ¶2, ¶3.) *Are not subject to civil service classification.* (See II, 11.)

b. In State organized fire districts.—Are appointed by the supervisors of the respective towns comprising the fire districts (see II, 23b), or by the commission, when the supervisor fails in his duty. (See II, 2.)

CHIEF RAILROAD INSPECTORS.**16. Qualification.**

They [chief railroad inspectors] must be familiar with the construction of locomotives and experienced in their operation. [C. L., sec. 51, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

17. Powers and Duties.

Inspect engines and rights of way, and perform such other duties as may be assigned them.—Two chief railroad inspectors [are hereby authorized], who shall inspect railroad locomotives and other engines, railroad rights-of-way, and perform such other duties as may be assigned them. [C. L., sec. 51, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

(See also I, 10.)

Arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16, ¶2.)

Consent to compromises of civil liability, upon order of commission. (See II, 53b, a ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

General Cross-References.

*Appointment.*¹ (See I, 9 ¶2, ¶3.)

Expenses. (See I, 26.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

AUDITOR OF FIRE ACCOUNTS.**18. Salary.**

An auditor of fire accounts [is hereby authorized], who shall receive a salary of one thousand eight hundred dollars per annum. [C. L., sec. 51, subsec. 9; * * *; L. 1916, ch. 451, sec. 1.]

19. Bond.

He shall execute and file with the comptroller a bond to the people of the state in the sum of five thousand dollars for the faithful performance of his duties and that he

will account for and pay over pursuant to law all moneys received by him. [C. L., sec. 51, subsec. 9; * * *; L. 1916, ch. 451, sec. 1.]

20. Duties.

He shall audit fire bills and accounts of the forestry bureau, and perform such other duties as may be required. [C. L., sec. 51, subsec. 9; * * *; L. 1916, ch. 451, sec. 1.]

(See also I, 10.)

General Cross-References.

Appointment. (See I, 9 ¶2, ¶3.)

Expenses. (See I, 26.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

GAME PROTECTORS.¹**Forest Fire Powers and Duties.²**

Extinguish fires. (See II, 9b.)

Employ fire-fighting laborers, foremen, and teams, and incur other necessary expenses. (See II, 9b.)

Impress assistance. (See II, 9b.)

Are reimbursed for expenses. (See I, 5, 26; II, 9b.)

Approve compromises of civil liability upon order of the commission. (See II, 53b, a ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

FIRE-FIGHTING LABORERS AND FOREMEN.**General Provisions Concerning:***a. Fire-fighting laborers:*

Are employed by district forest rangers and certain other officials to extinguish fires. (See II, 9b.)

Are paid at the rate of twenty cents per hour. (See II, 9b.)

b. Foremen:

Are employed by district forest rangers and certain other officials to extinguish fires. (See II, 9b.)

Are paid at the rate of thirty cents per hour. (See II, 9b.)

c. Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

TOWN ORGANIZED PROTECTION.**TOWN SUPERINTENDENT OF FIRES.****21. In Towns Other Than Fire Towns.**

Supervisor of town serves as superintendent of fires:

a. Under the Town Law.³—¶1. In towns other than those mentioned in section ninety-seven of the conservation law,⁴ the supervisor shall, by virtue of his office, be superintendent of fires of his town and * * *.

¹ Special game protectors have the same powers and duties as game protectors. (See, in volume of Session Laws of 1913, C. L., sec. 171, as amended by ch. 508 of L. 1913.)

² For provisions concerning game protectors' powers and duties under the fish and game department, and also their appointment, salary, expenses, and the like, see Article V of the conservation law.

³ The Town Law (ch. 63, Laws 1909, and its equivalent, ch. 62 of the Consolidated Laws, both as amended through 1917) is indicated in this compilation by the abbreviation "Town L."

⁴ The list of towns referred to is now contained in sec. 62, subsec. 10 of the conservation law. (See Table of Acts, on p. 39.)

¹ No specific provision is made as to their compensation.

PART II—Continued.]

¶2. **Member of town board to be designated to act as substitute, when necessary.**—The town board of each town shall at its first annual meeting designate one of its members to act as such superintendent of fires for the ensuing year in case of absence of the supervisor. [Town L., sec. 98, subsec. 8; * * * ; L. 1912, ch. 371, sec. 2.]

b. **Under the Conservation Law.**—In the towns other than the fire towns the town supervisor shall be superintendent of fires in his town and * * *. [C. L., sec. 52, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

22. **Prevents and Extinguishes Fires.**

a. **Under the town law.**—[The superintendent of fires shall be] charged with the duty of preventing and extinguishing forest fires. [Town L., sec. 98, subsec. 8; * * * ; L. 1912, ch. 371, sec. 2.]

b. **Under the conservation law.**—* * * he [the superintendent of fires] shall be charged with the duty of preventing and extinguishing forest fires. [C. L., sec. 52, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

23. **Employs Assistants.**

a. **Is empowered to employ forest rangers and other assistants.**—He [the superintendent of fires] shall have power to employ persons to act as forest rangers in preventing and fighting fires and to employ necessary assistants therefor, and * * * [Town L., sec. 98, subsec. 8; * * * ; L. 1912, ch. 371, sec. 2.]

b. **Is required to appoint fire wardens, and to report names of appointees to commission.**—He [the superintendent of fires] shall have the power and is hereby required to appoint necessary and competent fire wardens. On or before February fifteenth of each year, the town supervisor [the superintendent of fires] shall state to the commission, in writing, the names of the persons whom he appoints to act as fire wardens during the current calendar year. [C. L., sec. 52, subsec. 3; * * * ; L. 1916, ch. 451, sec. 2.]

24. **Has Certain Powers and Authority Similar to those Conferred Upon the Commission and Certain of its Subordinates.**

¶1. [The superintendent of fires] shall possess all the power and authority conferred upon the conservation commission, district forest ranger, forest ranger and fire warden under sections ninety-two and ninety-three¹ of the conservation law. [Town L., sec. 98, subsec. 8; * * * ; L. 1912, ch. 371, sec. 2.]

NOTE.—The portions of said sections 92 and 93¹ which concern the powers and authority referred to, read as follows:

§ 92. 1. * * *

2. * * * The district forest ranger, the forest ranger, game protector, or any other officer charged with the duty of fighting fires, may, when necessary, employ men and teams to fight forest fires and foremen, to be known as fire wardens, to direct the work of men who are actually engaged in fighting forest fires, and may incur any other necessary expenses, and may summon any male person of the age of eighteen years and upwards to assist in fighting forest fires. * * *

3. An action for trespass shall not lie against persons crossing or working upon lands of another to prevent or fight fires, or performing any other duties required by this chapter.

¹ These two sections (92 and 93) constituted a part of the conservation law of 1912, since materially amended and revised.

4. * * *

§ 93. Where owners of woodlands, or any organization, shall maintain a fire patrol for protection of woodlands the commission may designate such patrolman as special fire warden and give to him, for the protection of lands patrolled by him or adjacent thereto, all the rights and powers of forest rangers as herein provided; and such special fire warden shall be paid wholly by such owners or organizations [L. 1912, ch. 444, secs. 92 and 93.]

¶2. **Penalty for persons refusing to assist when summoned to fight forest fires.**—Any person summoned to fight forest fires who is physically able and refuses to assist shall be liable to a penalty of twenty dollars. [Town L., sec. 98, subsec. 8; * * * ; L. 1916, ch. 371, sec. 2.]

General Cross-References.

Liability for failure to perform duties under Article IVa of the C. L.: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

TOWN BOARDS.**Powers and Duties.***In fire towns:*

Provide the means for reimbursing the State for one-half of expenses incurred, by the State protective organization, in extinguishing fires which actually burned within their respective towns. (See II, 27.)

In all other towns:

Designate a member of the board to act as superintendent of fires, in absence of their respective town supervisors. (See II, 21a ¶2.)

Fix compensation of forest rangers, fire wardens, and other assistants authorized to be appointed by the town superintendent of fires. (See II, 25.)

Provide necessary means for maintaining the town fire protective system. (See II, 28 ¶2.)

FOREST RANGERS AND ASSISTANTS.¹25. **Compensation.**

The town board shall fix the compensation of all forest rangers and assistants employed under the provisions of this section and * * * [Town L., sec. 98, subsec. 8; * * * ; L. 1912, ch. 371, sec. 2.]

General Cross-References.

Are employed by superintendents of fires. (See II, 23a.)

Prevent and fight forest fires. (See II, 23a.)

FIRE WARDENS.²**General Cross-References.**

Are appointed by town superintendents of fires.³ (See II, 23.)

Rate of compensation is fixed by the town board.⁴ (See II, 25.)

Duties: None are specifically prescribed by law. (See II, 23.)

^a See Table of Acts, on p. 38.

¹ See also "Forest Rangers," under "State Organized Protection," on p. 9, and in the appendix, p. 37.

² See also "Fire Wardens," under "State Organized Protection," p. 9.

³ In a State organized fire district, if a town superintendent of fires fails to perform his duty, the commission may appoint the necessary fire wardens. (See II, 2.)

⁴ There is no specific provision for the compensation of fire wardens outside of State organized towns further than the general authority concerning compensation of forest rangers and necessary assistants. (See II, 25.)

PART II—Continued.]

DISTRIBUTION OF COSTS OF FIRE PROTECTION.**STATE.****26. In Fire Towns.**

¶1. Makes initial payment of all fire protection expenses, of which the following constitute the state's share, namely, the salaries and ordinary personal expenses of the regular employees of the commission, and one-half of the expenses incurred in extinguishing fires actually burning.—All salaries and other expenses incurred by the commission and its employees in protecting the forests in the fire towns from fire shall be paid by the state. [C. L., sec. 53, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

(See also ¶3 of this section.)

¶2. Comptroller advances funds, in installments of \$5,000 each, to facilitate payment of expenses.—The comptroller may upon request of the conservation commission advance, not to exceed five thousand dollars at any time, to said commission for the purpose of facilitating payment of fire accounts. [C. L., sec. 53, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

¶3. Reimburses persons¹ for fire-fighting expenditures.—If any person¹ incurs expenses fighting forest fires in a fire town, the commission may upon the receipt of satisfactory proof and accounts filed in its offices within sixty days from the time the expense was incurred audit and pay all or such portion thereof as in its judgment the public interest requires. [C. L., sec. 53, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

In Certain Other Towns, Namely, those Comprising State Organized Fire Districts.

Pays fire protection costs other than those specifically imposed upon town organizations. (See II, 2.)

TOWNS.**27. Fire Towns.**

Reimburse state for one-half of expenses incurred in extinguishing fires actually burning.—One-half of all expense incurred under subdivision two^a of this section in extinguishing fires actually burning, except salaries and expenses of regular employees, shall be a charge upon the town in which the fire burned. Expense account submitted by commission to boards of county supervisors.—The commission shall, on or before November twentieth of each year, transmit to the clerk of the board of supervisors of each county containing fire towns a summary statement of expenses incurred together with the amount charged against each town in such county. Reimbursement funds raised through additional tax on the towns.—The said clerk shall immediately deliver such statement to the board of supervisors who shall thereupon levy the said amount due from each town to the state upon the taxable property of such town by including the said amount in the sums to be raised and collected in the next levy and assessment of taxes therein, and

the same shall be collected as other town taxes are collected [Limitation of time for making reimbursements.—] and the amount due the state shall be paid by the supervisor to the conservation commission on or before May first following the levy thereof. [C. L., sec. 53, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

28. All Other Towns, Including those Within the State Organized Fire Districts.

¶1. Pay all expenses authorized to be incurred, under Town Law, in preventing and extinguishing forest fires.—* * * all expenses incurred under the provisions of this section¹ shall be a charge upon and paid by the town. [Town L., sec. 98, subsec. 8; * * *; L. 1912, ch. 371, sec. 2.]

¶2. Raise funds for such purposes through an additional tax, or temporary loans by supervisors.—Towns other than fire towns may raise necessary funds for prevention and extinguishment of forest fires in their towns either by levy or by the supervisor making temporary loans. [C. L., sec. 53, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

CONTINUING APPROPRIATIONS AND FUNDS.**29. Fund for Emergency Fire Protection Purposes Secured Through Temporary Loan.**

¶1. Preamble.—In order to carry into effect the provisions of this article² the following³ is prescribed. [C. L., sec. 53, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Comptroller makes loan with governor's approval.—The state comptroller shall have, subject to the approval of the governor, the authority to make, on behalf of the state, a temporary loan not exceeding one hundred thousand dollars in any fiscal year, for the use of the conservation commission in protecting the forests and extinguishing fires as provided by this article [Commission certifies existence of emergency.—] upon the certification of the conservation commission that an emergency exists whereby through insufficiency of appropriations it is found to be impossible to protect the forests from fire. Legislature makes appropriation to cover loan, reported by comptroller.—The comptroller shall thereupon borrow such sums as may be directed by the governor for such purposes and shall report such transactions to the legislature which shall thereupon appropriate the moneys borrowed. Section thirty-five of the finance law shall not apply to any indebtedness so incurred. [C. L., sec. 53, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

30. Disposition of Net Proceeds from Moneys in Actions for Penalties under Article IV.²

Moneys received in actions for penalties brought under article four of this chapter shall be paid to the commission, who shall apply so much thereof as may be necessary to the payment of the expenses of collections. The

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

^a See Table of Acts, on p. 38.

¹ Sec. 98 of Town Law. (See Table of Acts, on p. 38.)

² Article IV of C. L. (See Table of Acts, on p. 38.)

³ For these provisions, in full, see sec. 53 of the C. L., in Table of Acts, on p. 38.

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balance of such receipts shall be available for enforcing the various provisions of law for the protection of forests against fire. [C. L., sec. 30; L. 1912, ch. 444, sec. 4.]

KINDLING FIRES IN THE OPEN.**PERMIT RESTRICTIONS.****31. Permit Required, in Fire Towns, for Setting Fires to Clear Land, Burn Logs, Brush, Etc.**

¶1. No person¹ shall set or cause to be set fire for purpose of clearing land or burning logs, brush, stumps, or dry grass, in any of the fire towns, without first having obtained from the commission a written permit so to do. **Presence of person issuing permit required when forest land is endangered.**—If such burning is done near forest lands and if there is danger of the fire spreading, a person designated to issue such permits must be present. [C. L., sec. 54, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Commission designates persons to issue permits.—[The commission] May designate persons who shall have authority to issue permits as required by subdivision five, section fifty-four.² [C. L., sec. 50, subsec. 26; * * * L. 1916, ch. 451, sec. 1.]

Liability for failure to comply with requirement:

Criminal. (See II, 54, 55.)

Civil: Penalty. (See II, 57.) *Damages.* (See II, 59, 60, 61.) *Costs of fire fighting.* (See II, 62.)

PROHIBITIVE RESTRICTIONS.**32. Various Acts Prohibited On or Near Forest Land.**

a. **Setting forest land on fire.**—* * * no person¹ shall set forest land on fire; * * *

See, also, Penal L., sec. 1421; and, also, sec. 1900, subsec. 1. (Appendix, p. 36.)

b. **Setting fires for camping purposes without removing surrounding inflammable material.**—* * * no fire shall be set in or near forest land in connection with camping without all inflammable material having first been removed for a distance of three feet around the fire; * * *

c. **Leaving fires unquenched.**—No fires shall be set on or near forest land and left unquenched; * * *

d. **Using combustible gun wads or carrying naked torches.**—* * * no person shall use combustible gun wads or carry naked torches on forest lands; * * *

e. **Throwing down lighted matches, cigars, etc.**—* * * no person shall drop, throw, or otherwise scatter lighted matches, burning cigars, cigarettes or tobacco; * * *

f. ¶1. **Setting fires that will endanger, or negligently allowing fires to extend to, neighboring property.**—* * * no fire shall be set which will endanger the property of another; * * *

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

² See ¶1 of this section.

¶2. * * * no person¹ shall negligently suffer fire on his own property to extend to property of another; * * *.

See also Penal L., sec. 1900, subsecs. 2 and 3. (Appendix, p. 36.)

g. **Defacing or destroying posted forest fire notices.**—* * * no person shall deface or destroy any notice posted containing forest fire warnings, laws, or rules and regulations. [C. L., sec. 54, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

General Cross-References to this Section.*Criminal liability:*

For violation of subsecs. a, b, c, d, e, f¶1:

Fire set wilfully (felony). (See II, 56.)

Fire caused accidentally or negligently (misdemeanor). (See II, 54, 55.)

For violation of subsecs. f¶2, g (misdemeanor). (See II, 54, 55.)

See, also, Appendix, p. 36., secs. 1421, and 1900.

Civil liability:

For violation of above subsecs.:

Penalty. (See II, 57.) *Damages.* (See II, 59, 60, 61.)

Costs of fire fighting. (See II, 62.)

33. Close Season for Hunting, Camping, Etc., within Fire Towns, may be Proclaimed During Time of Drought.

¶1. **Preamble.**—The following provision shall apply in protecting forests from fire. [C. L., sec. 54, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **Proclamation by governor.**—Whenever, by reason of drought, the forests of the state are in danger of fires which may be caused by hunters, fishermen, trappers, or campers, the governor shall have the power to determine and shall determine and declare that such pursuits are contrary to the public interest, and shall have the further authority to forbid by proclamation any person or persons carrying on such pursuits in so much of the territory included within the fire towns as he deems the public interest requires. Such proclamations shall be in full force and effect at the expiration of twenty-four hours after notice is given in the manner the governor may determine. [C. L., sec. 54, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

34. Sending up Unpiloted Hot Air Balloons Prohibited in, or Adjacent to, Fire Towns.

No unpiloted hot air balloon shall be sent up in any fire town or in a town adjacent thereto. [C. L., sec. 54, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

Liability for violation of requirement:

Criminal. (See II, 54, 55.)

Civil: Penalty. (See II, 57.) *Damages.* (See II, 59, 61.)

Costs of fire fighting. (See II, 62.)

General Cross-Reference Under Kindling Fires in the Open.

In connection with brush and slash disposal in fire towns. (See II, 45, 46, 47.)

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

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RAILROADS.

35. Terms "Railroad" and "Railroad Company" Defined.

Railroad or railroad company includes all common carriers, logging or lumbering roads for public or private uses wherever the motive power is generated by steam. [C. L., sec. 62, subsec. 13; * * *; L. 1916, ch. 451, sec. 1.]

PRECAUTIONARY REQUIREMENTS THROUGH FOREST LANDS.**36. Equip Locomotives with Approved Fire Protective Devices of Ash Pan and Front Ends—Maintain and Properly Use Devices.**

¶1. **Preamble.**—In order to secure proper protection to the forests from fire the railroads which operate through such territory shall be subject to the following restrictions.¹ [C. L., sec. 55, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. No locomotive shall be operated unless equipped with fire protective devices of ash pan and front end which have been approved by the commission. Such devices shall be maintained and properly used. [C. L., sec. 55, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

Special penalty (civil) for violation of these requirements. (See II, 58 ¶1, ¶6.)

Employees required to use fire protective devices effectively. (See II, 43.)

37. Make Daily Inspection and Record of Condition of Devices During Danger Season.

¶1. Every railroad company shall examine each coal burning locomotive each day it is operated between March first and December first, and record the condition of the fire protective devices in a book, or books, kept for that purpose. **Make record accessible to inspection by commission.**—Such book, or books, shall be kept on file at such place or places in this state, as may be selected by each railroad company, and shall at all times at such places be accessible to inspectors of the conservation commission. Each railroad company shall within thirty days after the taking effect of this act file with the conservation commission a statement of the place or places at which it keeps such books; and in the event of a change of such place or places by said company, it shall file a statement of such change within five days after such change takes effect. [C. L., sec. 55, subsec. 5; * * *; L. 1917, ch. 266, sec. 4.]

Special penalty (civil) for violation of these requirements. (See II, 58 ¶1, ¶7.)

¶2. **Are liable to notice from commission to remove from service locomotives not properly equipped with fire protective devices, operating in fire towns.**—[The commission] May order removed from service, on forty-eight hours' notice, any railroad locomotive, operating in the fire towns, not properly equipped with fire protective devices.

¹ For these restrictions, in full, see sec. 55 of the C. L., in Table of Acts, on p. 38.

[C. L., sec. 50, subsec. 22; * * *; L. 1916, ch. 451, sec. 1.]

38. Leave no Unprotected Deposits of Fire, Live Coals, or Hot Ashes on Track or Right of Way, to Endanger Forest Lands.

¶1. Fire, live coals or hot ashes shall not be deposited unless properly protected upon any track or right of way on or near forest land. [C. L., sec. 55, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **The term "right of way," defined.**—Right of way is the land adjacent to the tracks of a railroad and shall be construed to be fifty feet in width on each side of the center of the track but if the company own a lesser width it shall include the entire width owned by them. [C. L., sec. 62 subsec. 11; * * *; L. 1916, ch. 451, sec. 1.]

Special penalty (civil) for violation of requirement. (See II, 58 ¶1, ¶8.)

39. Clear Rights of Way, when Required by Commission.

The right of way of all railroads which are operated through forest lands shall be kept cleared of all inflammable material whenever required by the commission. [C. L., sec. 55, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

Discretionary power, as to requirement, vested in the commission. (See II, 40 ¶2.)

Special penalty (civil) for violation of requirement. (See II, 58 ¶1, ¶5.)

40. Maintain Patrol Along Rights of Way, During Danger Season, Unless Relieved by Commission.

¶1. All railroads shall, on such parts of their rights of way as are operated through forest lands, maintain from April first to November fifteenth of each year a sufficient number of competent fire patrolmen unless relieved by the commission. **File list of patrolmen in office of commission.**—The railroad shall file in the office of the commission on or before April first of each year a complete list of such patrol indicating the names of the men, their post-office addresses and portion of right of way assigned each patrolman. If any changes are subsequently made similar data shall be furnished on request of the commission. [C. L., sec. 55, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

Special penalty (civil) for violation of these requirements. (See II, 58 ¶1, ¶5.)

¶2. **Discretionary power, as to requiring patrol and clearing rights of way, vested in commission.**—[The commission] May relieve railroads from maintaining railroad fire patrol, or clearing rights of way when in the judgment of the commission the absence of such patrol or clearing will not subject the forests to fire menace. [C. L., sec. 50, subsec. 24; * * *; L. 1916, ch. 451, sec. 1.]

¶3. **Duties of fire patrolmen defined.**—A fire patrolman shall be an able bodied man whose duty is to patrol a given portion of right of way for the purpose of detecting promptly any fires which may be caused by the operation of the railroad, or other fires which may occur upon such portion of the right of way, and secure their extinguishment. [C. L., sec. 62, subsec. 12; * * *; L. 1916, ch. 451, sec. 1.]

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41. Subject to Investigation, by Public Service Commission, as to Adequacy of Precautions Taken.

[The commission] May request the public service commission to hear and determine whether any railroad, person,¹ or company operating railroad locomotives through forest land is using such devices and precautions against the setting of forest fires, as the public interest requires. [C. L., sec., 50, subsec. 25; * * * ; L. 1916, ch. 451, sec. 1.]

42. Report to Commission Upon Forest Fires Along Rights of Way, Within Fire Towns or Protected Forest Lands.

A verified report of every forest fire which originates on the right of way or within two hundred feet thereof, in any of the fire towns or protected forest lands, shall be prepared by the railroad concerned, upon blanks furnished by the commission, and filed in the office of the commission within ten days after such fire occurs. [C. L., sec. 55, subsec. 4; * * * ; L. 1916, ch. 451, sec. 1.]

EMPLOYEES.**43. Required to Use Fire Protective Devices Effectively.**

Employees of a railroad shall at all times use in a proper and effective manner the fire protective appliances provided by such railroad. [C. L., sec. 55, subsec. 7; * * * ; L. 1916, ch. 451, sec. 1.]

(See also II, 36.)

Duties of Fire Patrolmen.

(See II, 40 ¶3.)

LIABILITY.**General Cross-References.**

Criminal: Misdemeanor. (See II, 54, 55.) *Felony.* (See II, 56.)

Civil: General penalty. (See II, 57.) *Damages.* (See II, 59, 60, 61.) *Costs of fire-fighting.* (See II, 62.)

NOTE.—For references to additional penalties for violation of certain specific provisions, see II, 58 ¶1, ¶4, ¶5, ¶6, ¶7, ¶8.

STEAM OPERATED ENGINES, MACHINES, AND POWER PLANTS, OTHER THAN RAILROAD LOCOMOTIVES.**44. Prevent the Escape of Sparks, Cinders and Coals, On or Near Forest Lands, Under Direction of Commission.**

No device for generating power which burns wood, coke, lignite or coal shall be operated in, through or near forest land, unless the escape of sparks, cinders or coals shall be prevented in such manner as may be required by the commission. [C. L., sec. 54, subsec. 6; * * * ; L. 1916, ch. 451, sec. 1.]

Liability for failure to comply with requirement:

Criminal. (See II, 54, 55.)

Civil: General penalty. (See II, 57.) *Special penalty.* (See II, 58 ¶1, ¶3.) *Damages.* (See II, 59, 60, 61.) *Costs of fire-fighting.* (See II, 62.)

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

COMPULSORY BRUSH AND SLASH DISPOSAL.

(In fire towns.)

INCIDENT TO LUMBERING, PUBLIC WORKS, AND FARMING.**45. Evergreen Trees must be Top-Lopped at Time of Felling—Exceptions.**

¶1. Every person¹ who shall within any of the fire towns fell or cause to be felled or permit to be felled any evergreen tree for sale or other purposes shall cut off or cause to be cut off from the said tree at the time of felling the said tree, unless otherwise authorized by the commission before the trees are felled, all the limbs thereof up to a point where the trunk of the said tree has a longest diameter which does not exceed three inches, unless the said tree be felled for sale and use with the limbs thereon or for use with the limbs thereon. [C. L., sec. 54, subsec. 2; * * * ; L. 1916, ch. 451, sec. 1.]

¶2. **Extension of time may be granted by commission.**—[The commission] May grant an extension of time in which owners may comply with subdivision two of section fifty-four² when the commission is satisfied that such an extension of time will not endanger the forests to fire, but in no case shall an extension be granted for a period of more than six weeks from the time of cutting. [C. L., sec. 50, subsec. 23; * * * ; L. 1916, ch. 451, sec. 1.]

46. Logs and other Inflammable Slashings must not be Left within Certain Designated Distances of Rights of Way of Railroads and Public Highways.

In any of the fire towns, brush, logs, slash or other inflammable material resulting from the cutting of trees hereafter shall not be left or allowed to remain on land within twenty-five feet of the right of way of a railroad or within twenty feet of the right of way of a public highway. [C. L., sec. 54, subsec. 7; * * * ; L. 1917, ch. 266, sec. 3.]

47. Brush or Other Inflammable Material must not be Left Upon Rights of Way of Highways.

No person¹ shall deposit, and leave in any of the fire towns, brush or inflammable material upon the right of way of highways. [C. L., sec. 54, subsec. 8; * * * ; L. 1916, ch. 451, sec. 1.]

General Cross-References.

Permit required if slash is disposed of by burning. (See II, 31.)

Liability for failure to comply with requirements:

Criminal. (See II, 54, 55.)

Civil: General penalty. (See II, 57.) *Damages.* (See II, 59, 60, 61.) *Costs of fire-fighting.* (See II, 62.)

NOTE.—For references to additional penalties for violation of certain specific provisions, see II 58 ¶1, ¶2, ¶4.

LEGAL PROCEDURE.**INSTITUTION OF PROCEEDINGS.****48. Power of Commission to Institute and Conduct Proceedings under Article IV^a of the Conservation Law.**

[The commission is empowered to bring] Such actions or proceedings as may be necessary to insure the enforce-

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company or a corporation. (See Appendix, p. 35.)

² See ¶1 of this section.

^a See Table of Acts, on p. 38.

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ment of the provisions of this article. [C. L., sec. 50, subsec. 11 (b); * * * ; L. 1916, ch. 451, sec. 1.]

49. Deputy Attorney General Acts for Commission in Legal Proceedings.

It shall be the duty of the attorney general, when requested by the commission, to appoint a deputy attorney-general, and such assistants as may be necessary, and assign them to the commission. The deputy attorney-general shall receive an annual salary of five thousand dollars. The salaries of the assistants shall be fixed by the commission. It shall be the duty of such deputy, in the name of the attorney-general, to conduct all prosecutions for penalties imposed by the forest, fish and game law or by this chapter, and to bring all actions, suits and proceedings, which the commission shall be authorized to institute and maintain, and to defend all actions, suits and proceedings brought against the commission. Such deputy shall also act as counsel to the commission. [C. L., sec. 9; * * * ; L. 1915, ch. 318, sec. 7.]

50. Actions for Penalties Are Brought in the Name of the "People of the State of New York."

¶1. Actions for penalties for violations of any provision of this chapter shall be in the name of the "People of the State of New York;" [Brought on order of the commission.—] and must be brought on the order of the commission, and may be compromised, settled and discontinued as provided in section nine¹ of this chapter. Such actions, if in justices' courts, may be brought in any town of the county in which the penalty is incurred, or, if the defendant resides in another county, in any town of the county in which the defendant resides. [C. L., sec. 26; L. 1912, ch. 444, sec. 4.]

¶2. Jurisdiction of courts in criminal cases.—Subject to the power of removal provided in the code of criminal procedure, courts of special sessions and police courts shall have, in the first instance, jurisdiction of offenses committed under this chapter, within their respective counties. A warrant shall be returnable before the magistrate issuing the same. And, for the purpose of this chapter only, the jurisdiction of the courts mentioned in this section is extended as to misdemeanors to permit the imposition of the fines and sentences authorized by this chapter. [C. L., sec. 31; L. 1912, ch. 444, sec. 4.]

METHOD OF PROCEDURE.

51. Immunity of Witnesses.

No person shall be excused from testifying or producing any books, papers or other documents in any civil or criminal action, or proceeding taken or had under this chapter, upon the ground that his testimony might tend to convict him of a crime, or to subject him to a penalty or forfeiture. But no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concern-

¹ The commission has no authority to compromise, settle, or discontinue under sec. 9, mentioned above, which has to do solely with questions of land titles and the authority of the court thereunder, but is otherwise granted compromise powers as to civil judgments acting under Article IV. (See II, 53.)

ing which he shall, under oath, have testified or produced documentary evidence, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained is intended to give, or shall be construed as in any manner giving, unto any corporation, immunity of any kind. [C. L., sec. 35; L. 1912, ch. 444, sec. 4.]

52. Full Costs May Be Recovered in Actions for Penalties.

¶1. In case of recovery of any amount in an action brought for a penalty under this chapter or in any action authorized by this chapter, in any court of record, the people shall be entitled to recover full costs, of course, and at the rates as provided by section thirty-two hundred and fifty-one of the code of civil procedure, together with witnesses' fees and other disbursements. [C. L., sec. 27; * * * ; L. 1915, ch. 554, sec. 1.]

¶2. Enforcement of judgment.—Judgments recovered under this chapter may be enforced by execution against the person as provided by the code of civil procedure. A person taken into custody upon such an execution shall not be admitted to the liberties of the jail and shall be confined for not less than one day, and at the rate of one day for each dollar of the amount of the judgment recovered. No person shall be imprisoned more than once, or for more than six months on the same judgment. Imprisonment shall not operate to satisfy a judgment. [C. L., sec. 28; L. 1912, ch. 444, sec. 4.]

(See also II, 57 ¶2.)

53. Compromise in Cases of Civil Liability.

a. Authority to compromise such cases.—¶1. By the commission.—[The commission] May compromise or adjust any judgment or claims arising out of violations of any provisions of this article,¹ [Cases involving titles to lands excepted.—] except where title to land is involved. [C. L., sec. 50, subsec. 12; * * * ; L. 1916, ch. 451, sec. 1.] ¶2. By employees, when specifically authorized.—No employees shall compromise or settle any violation of this article without the order of the commission. [C. L., sec. 51, subsec. 16; * * * ; L. 1916, ch. 451, sec. 1.]

b. Procedure in such cases.—A person who has violated any of the provisions of this chapter and who desires to compromise and settle his civil liability therefor may appear with any regular or special game protector, fisheries protector, fire superintendent, forest ranger or inspector, before a court or justice having jurisdiction in civil actions, and thereupon such person may, upon the consent of the representative of the conservation commission appearing, compromise and settle his liability for civil penalties under this chapter, for an amount agreed upon between said court or justice, the representative of the conservation commission and the person who committed such violation, which amount

¹ Article IV of the C. L. (See Table of Acts, on p. 38.)

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shall be not less than ten dollars nor more than the amount for which such person would be liable in a civil action for penalties. If such compromise be made, such person shall forthwith subscribe his name to a statement setting forth concisely the facts constituting such violation, the amount agreed upon, and that a judgment may be entered against him for that sum. Upon said statement being sworn to before and filed with said court or justice, he shall forthwith enter in his civil docket a record of the proceedings and the amount of the judgment.

Said court or justice shall upon the entry of such judgment be entitled to a fee of one dollar and fifty cents to be paid by the person who committed such violation.

A judgment entered as provided herein may be enforced by an execution against the property of the defendant; but no body execution shall issue thereon. Such judgment shall be a bar to a criminal action for the same violation, if satisfied within thirty days from the date of the entry thereof. [C. L., sec. 36; * * *; L. 1917, ch. 486, sec. 3.]

General Cross-References.

Court reports, to the commission, disposition of cases, tried or compromised. (See sec. 37, C. L., in vol. of 1917 Laws, ch. 486, sec. 4.)

Actions pending in 1911 are continued by, or against, the commission. (See I, 2 ¶1, footnote 3.)

CRIMINAL LIABILITY.**54. Misdemeanors Under Article IV¹ of Conservation Law.**

¶1. **Preamble.**—In order to secure the enforcement of the several sections of this article,¹ the following fines and penalties² are provided. [C. L., sec. 63, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **Defined.**—Any person³ who violates any provisions of this article¹ or who fails to perform any duty imposed by any provision thereof shall be guilty of a misdemeanor, * * * [C. L., sec. 63, subsec. 1; * * *; L. 1917, ch. 266, sec. 6.]

Penalties. (See II, 55.)

55. Penalties for Misdemeanors Under Conservation Law, in General.

For first offense.—A person³ convicted of a misdemeanor under this chapter, except as otherwise provided herein,⁴ shall be punished by a fine of not less than ten dollars nor more than one hundred dollars; and if such fine is not paid, he shall be imprisoned in a county jail or penitentiary until such fine is satisfied; which imprisonment shall be at the rate of one day for every dollar of such fine; [**For second offense.**—] if any person be convicted a second time of a misdemeanor under this chapter, except as otherwise provided herein, he shall be punished

either by a fine of not less than twenty-five dollars nor more than one hundred and fifty dollars; or by imprisonment in a county jail or penitentiary for not more than one hundred days, or by both such fine and imprisonment; if a fine imposed be not paid, he shall be imprisoned in a county jail or penitentiary until such fine is satisfied which imprisonment shall be at the rate of one day for every dollar of such fine; [**For third offense.**—] if a person shall be convicted a third time of a misdemeanor under this chapter, unless otherwise provided herein, he shall be punished by imprisonment in a county jail or penitentiary for not less than ten days nor more than six months; and by a fine of not less than ten dollars nor more than one hundred dollars; and if the fine imposed be not paid, he shall be imprisoned in a county jail or penitentiary until such fine is satisfied; which imprisonment shall be at the rate of one day for every dollar of such fine and shall be in addition to the prison sentence. [C. L., sec. 32; * * *; L. 1916, ch. 521, sec. 2.]

56. Felony, Under the Conservation Law.

Setting fire wilfully on or near forest lands.—Any person¹ who sets fire wilfully in violation of section fifty-four, subdivision three,² shall be guilty of a felony. [C. L., sec. 63, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

See also Appendix p. 36, "Excerpts from the Penal Law."

CIVIL LIABILITY.**57. General Penalty for Violation of Provisions Under Article IV³, or Failure to Perform Duties Thereunder.**

¶1. [Any person¹ who violates any provision of Article IV³, or who fails to perform any duty imposed by any provision thereof, shall be guilty of a misdemeanor⁴] and in addition thereto shall be liable to a penalty of not less than ten nor more than one hundred dollars. [C. L., sec. 63, subsec. 1; * * *; L. 1917, ch. 266, sec. 6.]

¶2. **Imprisonment in case of default in respect to payment of penalties imposed under section 63⁵ of the conservation law.**—In default of the payment of any fine⁶ or penalty imposed under this section,⁵ the defendant may be committed to jail until such fine or penalty is paid, but the term of confinement shall not exceed one day for each dollar of fine imposed. [C. L., sec. 63, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.] (See also II, 52 ¶2.)

Civil penalties may be compromised. (See II, 53.)

58. Additional Special Penalties for Failure to Comply with Certain Requirements of Article IV.³

¶1. **Preamble.**—The violation of any of the provisions of the following sections⁷ shall subject the person¹ guilty

¹ The term "person," as used in Article IV of the conservation law includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

² Subsec. 3 of sec. 54 of the conservation law. (See Table of Acts, on p. 38.)

³ See Article IV of the conservation law, in Table of Acts, on p. 38.

⁴ See II, 54 ¶2.

⁵ For section 63 of the conservation law, see Table of Acts, on p. 38.

⁶ The fines in cases of misdemeanor, which were formerly imposed by this section (sec. 63 of the conservation law), were omitted by the 1917 amendment of subsec. 1, thereof. (See ¶1 of this section.)

⁷ Secs. 54, 55 of conservation law. (See Table of Acts, on p. 38.)

¹ See Article IV of conservation law, in Table of Acts, on p. 38.

² For provisions, in full, concerning these fines and penalties, see sec. 63 of the C. L., in Table of Acts, on p. 38.

³ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

⁴ See I, 21 ¶3, ¶4.

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thereof to the following penalties in addition to the liability prescribed in subdivision one¹ of this section; ¶2. [Properly top-logging evergreen trees.—]section fifty-four, subdivision two,² penalty of two dollars per tree; ¶3. [Equipment of portable engines, operating near forest lands, with proper fire protective devices.—]for failure to comply with the provisions of subdivision six³ of section fifty-four, penalty of twenty-five dollars per day; ¶4. (a) [Must not leave logs and other inflammable slashings within certain designated distances of rights of way of railroads and public highways.—]for violation of subdivision seven⁴ of section fifty-four, penalty of ten dollars per mile per day, and the owner, and every other person engaged in such cutting shall be liable therefor; * * * (b) Limitation as to time when liability begins to run, under (a).—Nevertheless, liability for penalty for violation of subdivision seven⁴ of section fifty-four shall not arise until the expiration of twenty days after notice in writing of failure to comply with the requirements of such subdivision. Service of notice, how made.—Service of such notice may be made personally or by mail to the last known place of residence or locality of such person. ¶5. Clearing rights of way and maintenance of fire patrol.—* * * for violation of the several subdivisions of section fifty-five⁵ as follows: subdivisions one⁶ and two⁷, ten dollars per mile per day; ¶6. [Equipment of locomotives with fire protective devices.—]subdivision three,⁸ one hundred dollars per day per locomotive; ¶7. [Examination of devices on coal-burning locomotives, and keeping records open to commission.—]subdivision five,⁹ penalty of twenty five dollars per day per place and penalty of one hundred dollars for failure to show record of inspector; ¶8. [Must not leave deposits of live coals, etc., upon tracks and rights of way on or near forest lands.—]for violation of subdivision six,¹⁰ one hundred dollars for each offense. [C. L., sec. 63, subdiv. 2; * * *: L. 1917, ch. 266, sec. 6.]

Imprisonment is provided in case of default in respect to payment of penalties imposed under section 63^a of the conservation law. (See II, 57 ¶2.)

Civil penalties may be compromised. (See II, 53.)

59. Damages when Forest Fires Are Caused Through Negligence.

Preamble.—In case of damage by forest fire negligently caused the injured party may maintain actions in accordance with such of the following provisions¹¹ as are applicable thereto and shall have redress therefor. [C. L., sec. 56, preamble; * * *: L. 1916, ch. 451, sec. 1.]

¹ See II, 57 ¶1.

² See II, 45 ¶1.

³ See II, 44.

⁴ See II, 46.

⁵ Sec. 55 of conservation law. (See Table of Acts, on p. 38.)

⁶ See II, 40 ¶1.

⁷ See II, 39.

⁸ See II, 36.

⁹ See II, 37 ¶1.

¹⁰ See II, 38 ¶1.

¹¹ See Table of Acts, on p. 38.

¹² For these provisions, in full, see this section and the two sections which immediately follow (secs. 59, 60, 61).

a. ¶1. On state lands.—Any person¹ who causes a fire which burns on or over state lands shall be liable to the state for treble damages and, in addition, to a penalty of ten dollars for every tree killed by such fire. [C. L., sec. 56, subsec. 1; * * *: L. 1916, ch. 451, sec. 1.]

¶2. Rates of damages same as for private lands.—Damages to state lands and timber shall be ascertained and determined at the same rate of value as if such property were privately owned. [C. L., sec. 56, subsec. 4; * * *: L. 1916, ch. 451, sec. 1.]

b. On municipal or private lands.—Any person¹ who causes a fire which burns on or over lands belonging to another person or to a municipality shall be liable to the party injured for actual damages in case of fire negligently caused or * * *: [C. L., sec. 56, subsec. 2; * * *: L. 1916, ch. 451, sec. 1.]

c. Liability not affected by distance from origin of fire, or fact of intervening tracts.—The state, a municipality or any person¹ may sue for and recover under subdivisions one² or two³ of this section, however distant from the place where the fire was set or started and notwithstanding the same may have burned over and across several separate, intervening and distinct tracts, parcels or ownerships of land. [C. L., sec. 56, subsec. 3; * * *: L. 1916, ch. 451, sec. 1.]

60. Prima Facie Evidence of Negligence.

a. By railroad company, when fire originates upon right of way.—The fact that a fire originates upon the right of way of a railroad shall be prima facie evidence that the fire was caused by negligence of the railroad company. [C. L., sec. 56, subsec. 5; * * *: L. 1916, ch. 451, sec. 1.]

b. By owner or occupant of the land, when fire is set for clearing land, or disposing of brush, logs, etc., within a fire town.—Whenever a fire has been set for the purpose specified in subdivision five of section fifty-four^a in any of the fire towns it shall be prima facie evidence that the fire was started by the owner or occupant of the land. [C. L., sec. 56, subsec. 6; * * *: L. 1916, ch. 451, sec. 1.]

61. Damages when Forest Fires Are Wilfully Caused.

On municipal, or private lands.—[Any person¹ who causes a fire which burns on or over lands belonging to another person or to a municipality shall be liable to the party injured] for damage at the rate of one dollar for each tree killed or destroyed in case of fire wilfully caused. [C. L., sec. 56, subsec. 2; * * *: L. 1916, ch. 451, sec. 1.]

Liability not affected by distance from origin of fire, or fact of intervening tracts. (See II. 59c.)

62. Costs of Fire-Fighting May Be Recovered, in Addition to Damages and Penalties.

Any moneys necessarily expended by the state, a municipality, or any person¹ in fighting forest fires may be sued for by the state, municipality or person expending

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

² See subsec. a ¶1 of this section.

³ See subsec. b of this section, and II, 61.

^a See Table of Acts, on p. 38.

PART II—Continued.]

the same and recovered from the person¹ causing the fire. Such actions may be maintained in addition to other actions for damages or penalties and may be demanded in the same or separate actions. [C. L., sec. 53, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of state and municipal forests and for the practice of forestry on these and on other lands owned by the state.)

STATE FORESTS.

PURPOSE OF ESTABLISHMENT.

1. For Use of All the People.

All lands within such park,² now owned, or which may hereafter be acquired by the state, shall be forever reserved and maintained for the free use of all the people. [C. L., sec. 62, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

NOTE.—Included in the above general purpose, the law specifically provides that these lands may be used, under certain conditions, in connection with river improvement and regulation works to the extent necessary, except that not to exceed 3 per cent of the area may be used for construction and maintenance purposes. [C. L., sec. 456-a; L. 1914, ch. 493, sec. 1; and C. L., sec. 446; L. 1916, ch. 584, sec. 1.]

2. Protective Restrictions.

Preamble.—In order to protect the lands described in this article³ the following provisions⁴ shall apply. [C. L., sec. 61, preamble; * * *; L. 1916, ch. 451, sec. 1.]

a. Certain acts prohibited:

¶1. **Trespass upon timber, in general, or other property.**—No person⁵ shall cut, remove or destroy any trees or timber or other property thereon or enter upon such lands with intent so to do. [C. L., sec. 61, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **Injury to trees planted for reforestation.**—No person⁵ shall injure or cause to be injured any trees planted for the purpose of reforestation. [C. L., sec. 61, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

¶3. **Special penalties for cutting trees.**—Any person⁵ who cuts or causes to be cut any tree or trees upon the

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company or a corporation. (See Appendix, p. 35.)

² This statement of purpose is applicable to the forest preserve, as a whole, notwithstanding that the above text constitutes a part of the description of the Catskill Park, since a similar declaration of purpose is appended to the description of the Adirondaek Park. (See III, 3b ¶2.)

³ The term "lands described in this article" (Art. IV of C. L.), would seem to lead to the inference that the provisions of this section apply to lands in municipal forests, as well as to those belonging to the State. In most of the provisions, however, the restrictions are specifically placed upon State lands.

⁴ For these provisions, in full, see Sec. 61 of C. L., in Table of Acts, on p. 38.

⁵ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

DISPOSITION OF MONEYS RECOVERED IN ACTIONS FOR PENALTIES.

Under Article IV^a of the Conservation Law.

Net proceeds available for forest fire protective work. (See II, 30.)

forest preserve shall be liable to a penalty of ten dollars per tree or treble damages or both. [C. L., sec. 63, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

¶4. **Use of lands for agricultural or grazing purposes.**—No person¹ shall use any portion of the forest preserve for agricultural purposes, nor shall cattle or domestic animals of any kind be permitted to graze thereon. [C. L., sec. 61, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

¶5. **Depositing rubbish or other waste material.**—No person¹ shall deposit or leave thereon any rubbish or other waste material. [C. L., sec. 61, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

¶6. **Leasing or transferring of lands or improvements.**—No person¹ shall lease, transfer or accept any lease or transfer of any lands in the forest preserve or of any improvements thereon. [C. L., sec. 61, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

b. Permit required for erection or use of buildings.

¶1. No buildings shall be erected, used or maintained upon the forest preserve except under permits from the commission. [C. L., sec. 61, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **In connection with working mines.**—Permission to erect buildings for working mines upon state lands within the forest preserve may be given by the * * * [conservation] commission, and elsewhere, by the commissioners of the land office, when such lands are entirely denuded of timber or when such commission or commissioners are satisfied that the erection or occupation of such buildings will not be detrimental to the interests of the state. **Trees may only be removed incident to road-making.**—Nothing in this article² shall authorize any person working a mine upon state lands to cut or destroy any timber whatever except such trees as it may be actually necessary to remove in order to uncover or make a road to such mine. **Payment required for trees removed, over a certain size.**—For each tree measuring four inches or more in diameter at a height of one foot from the ground, which shall be so cut, the party operating the mine shall pay into the state treasury the sum of one dollar. [Pub. Lands L.,³ sec. 84.]

^a See Table of Acts, on p. 38.

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

² Article 7 of public lands law.

³ The public lands law is contained in L. 1909, ch. 50, and its equivalent ch. 46 of the consolidated laws, both as amended through 1917.

PART III—Continued.]

c. **Permit required to work mines.**—Nothing contained in this article¹ shall affect any grant heretofore made by the legislature to persons having discovered mines; nor be construed to give any person a right to enter upon or break up the lands * * * of the state, or to work any mine in such lands, unless the written consent * * * of the commissioners of the land office, when the lands belong to the state, shall be previously obtained. [Pub. Lands L., sec. 84.]

General provisions as to liability for violations of provisions of Article IV^a of C. L.: Criminal. (See II, 54, 55.)
Civil. (See II, 57.)

d. **Suitable conditions may be imposed by commission in disposing of improvements.**—The commission may dispose of any improvements upon the forest preserve under such conditions as it deems to be to the public interest. [C. L., sec. 61, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

e. **Permit required for removal of material belonging to the state.**—No person² shall remove any material belonging to the state from the state lands without the authorization of the commission. [C. L., sec. 61, subsec. 8; * * *; L. 1916, ch. 451, sec. 1.]

General provisions as to liability for violations of provisions of Article IV^a of C. L.: Criminal. (See II, 54, 55.)
Civil. (See II, 57.)

ESTABLISHMENT.

3. Forest Preserve Defined.

a. **General description of areas.**—The forest preserve shall include the lands owned or hereafter acquired by the state within the county of Clinton, except the towns of Altona and Dannemora, and the counties of Delaware, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Oneida, Saratoga, Saint Lawrence, Warren, Washington, Greene, Ulster and Sullivan, except

(a) Lands within the limits of any village or city, and

(b) Lands not wild lands and not situated within either the Adirondack park or the Catskill park acquired by the state on foreclosure of mortgages made to loan commissioners. [C. L., sec. 62, subsec. 1; * * *; L. 1917, ch. 266, sec. 5.]

b. **¶1. Adirondack park.**—All lands³ located in the forest preserve counties of the Adirondacks within the following-described boundaries, to wit: * * *, [¶2.] shall constitute and be known as the Adirondack park. All lands within said park now owned, or which may hereafter be acquired by the state, shall be forever reserved and maintained for the use of all the people. [C. L., sec. 62, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

c. **¶1. Catskill park.**—All lands⁴ located in the counties of Greene, Delaware, Ulster and Sullivan within the fol-

lowing-described boundaries, to wit: * * *, [¶2.] shall constitute and be known as the Catskill park. [C. L., sec. 62, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

Lands reserved for free use of all the people. (See III, 1.)

4. Lands Acquired by Purchase.

a. **Under conservation law, with approval of the governor.**—[The commission may] Purchase, subject to the approval of the governor, lands, forests, rights in timber or any interest therein, situated within the Adirondack or the Catskill parks or lands contiguous, connected with or adjacent to either park. [C. L., sec. 50, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

b. **Under bond issue appropriation act, with approval of commissioners of the land office.**—Any such lands¹ [as are indicated in sec. 1 of this act (see III, 14 ¶2.)] may be acquired under the direction of the conservation commission by purchase, by and with the advice and consent of the commissioners of the land office,² without other approval, or * * * [L. 1917, ch. 146, sec. 2.]

Payment made only upon warrant and audit of comptroller, based on approved vouchers of conservation commission and commissioners of the land office, with certificate of attorney general as to title and conveyance. (See III, 13.)

5. Lands Acquired by Entry and Appropriation.

a. **Under conservation law, with approval of the governor:**

¶1. **Preamble.**—The commission shall, with the approval of the governor, have the power and authority to appropriate real property in the manner and under the conditions herein³ defined: [C. L., sec. 59, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. The commission may enter upon and take possession of any lands or waters or both, or of any forests and rights in timber upon such lands, or upon any part, or portion thereof, within the Adirondack or Catskill parks or adjacent thereto, the appropriation of which, in the judgment of said commission, shall be necessary for public park purposes, or for the protection and conservation of the lands, forests and waters within the state, and [sic] * * * [C. L., sec. 59, subsec. 1 (a); * * *; L. 1916, ch. 451, sec. 1.]

b. **Under bond issue appropriation act, with approval of the commissioners of the land office.**—* * * they [such lands as are indicated in sec. 1 of this act (see III, 14 ¶2)] may be acquired under the direction of the conservation commission by entry and appropriation in the manner

¹ The term "lands," as used in this act, includes the improvements thereon, if any. All land acquired under this act shall be for the use of all the people. [L. 1917, ch. 146, sec. 4.]

² The [Bond Issue] enabling act concerning this bond issue contains the following provision: "Subject to the filing of such consent, any such proceedings shall be conducted by and in the name of the conservation commission; Provided, however, that if any other board, officer or commission shall succeed by law to the general powers of the conservation commission in relation to the care of the forest preserve, such latter board, officer or commission shall have and exercise all of the powers and duties conferred by any provision of this section upon the conservation commission." [L. 1916, ch. 569, sec. 4.]

³ For these provisions, in full, so far as they concern forestry, see sec. 59 of C. L., in the Table of Acts on p. 38.

^a See Table of Acts, on p. 38.

¹ Article 7 of public lands law.

² The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

³ The text of this description, in detail, which is here omitted, will be found in the Appendix (see p. 33).

⁴ The text of this description, in detail, which is here omitted, will be found in the Appendix (see p. 34.)

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provided by section fifty-nine^a of the conservation law, as amended, relating to lands within the Adirondack or Catskill parks or adjacent thereto. **Sec. 59 of C. L. applies.**—All the provisions of such section shall apply to lands to be acquired under this act¹ and the acquisition thereof and to compensation or damages therefor, [Exceptions.—] excepting as follows: (1) the entry and appropriation shall be with the advice and consent of the commissioners of the land office instead of the approval of the governor, and (2) such consent, in writing, shall be filed with the county clerk of each county in which lands proposed to be taken are situated. [L. 1917, ch. 146, sec. 2.]

Lands acquired subject to retention by owner of title to timber. (See III, 8.)

6. Lands Acquired by Gift or Devise.

Under conservation law.—[The commission may] Receive and accept in the name of the people of the state, by gift or devise, the fee or other estate therein of lands or timber or both, for forestry purposes. [C. L., sec. 50, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

7. Lands Acquired by Tax Sales.

NOTE.—The provisions under which the State acquires lands through tax sales are general, and the text is, accordingly, omitted here as not being properly forestry legislation. Briefly, the general scope of these provisions may be stated as follows:

1. By bidding in in the first instance. (See Tax L., secs. 122, 123, 133.)

2. By reversion through default in payment by the original purchaser. (See Tax L., sec. 126.)

3. By purchase, through priority right, when originally bid in by the following counties: Saint Lawrence, Lewis, Clinton, Warren, Washington and Oneida. (See Tax L., secs. 150, 151.)

8. Lands Acquired by Entry and Appropriation Subject to Retention of Title to Timber by Owner, Under Both Conservation and Bond Issue Appropriation Acts.³

a. Through agreement.—Land acquired by purchase⁴ may be taken subject to the reservation of the trees thereon [Diameter limit.—] down to eight inches in diameter, breast high, at the time of such purchase, [Right to owner to remove timber, subject to any existing encumbrances.—] with the right to the owner to remove the same within the time specified in the next section,⁵ or upon agreement between the commission and the owner, subject to any lease, mortgage, or other incumbrance, not extending fifteen years beyond the date of acquisition. **Value of timber reserved and of other encumbrances, to be deducted from purchase price.**—The amount or value of any such lien, incumbrance or timber reservation, upon land so pur-

chased, shall be deducted from the purchase price thereof. [C. L., sec. 59, subsec. 10; * * *; L. 1916, ch. 451, sec. 1.]

b. Through court of claims proceedings.—The owner of land taken under this article¹ may, [With consent of commission and under certain conditions.—] with the written consent of the conservation commission, and within the limitations hereinafter prescribed,² reserve trees thereon [Diameter limit.—] not less than eight inches in diameter, breast high, at the time of the service of the notice [Removal not to destroy forest floor.—] provided the removal of such trees will not destroy the forest cover. **Time limit for making reservation.**—Such reservation must be exercised within six months after the service upon the owner of a notice of the appropriation, by the owner serving upon such commission a written notice that he elects to reserve such trees. **Waiver of right.**—If such notice be not served by the owner within the time above specified he shall be deemed to have waived his right to such reservation, and such trees shall thereupon become and be the property of the state. The presentation of a claim to the court of claims before the service of a notice of reservation shall be deemed a waiver of the right to such reservation. [C. L., sec. 59, subsec. 9; * * *; L. 1916, ch. 451, sec. 1.]

9. Such Retention of Title to Timber Subject to Certain Limitations.

Preamble.—The right to reserve timber, and the manner of exercising and consummating such right, are subject to the following restrictions, limitations and conditions.³ [C. L., sec. 59, subsec. 11; preamble, * * *; L. 1916, ch. 451, sec. 1.]

a. As to location with reference to lakes, ponds, or rivers.—Timber within twenty rods of a lake, pond or river cannot be reserved. **Roadway rights, and conditions attached.**—Under the supervision of the commission roads may be cut or built across or through such excepted space of twenty rods, for the purpose of removing trees from adjoining lands, and the person⁴ reserving such timber on the adjoining lands, his legal representatives or assigns, shall have the right, which right shall be deemed a part of such reservation, to construct such roads, through and across the reserved timber land, and through and across such excepted strip, as may be necessary to remove the timber so reserved; but in constructing such roads only such trees shall be cut as are within the limits of such roads. The commission may prescribe the manner of all such roads [Use of dead, down, and other necessary timber.—] and may permit the use of any dead, down or other necessary timber for the construction only of roads, skidways, lumber camps, or for fuel, which right shall also be deemed a part of the soft wood timber reservation by the owner. No trees or timber shall be cut for the construction of roads, camps or other

^a See Table of Acts, on p. 38.

¹ L. 1917, ch. 146. (See Table of Acts, on p. 38.)

² "Tax L.," as used in this compilation of the forestry laws of New York, indicates the tax law (ch. 62, Laws 1909, and its equivalent, ch. 60 of the Consolidated Laws, both as amended through 1917).

³ See III, 5b.

⁴ See III, 4a.

⁵ See III, 9b.

¹ Article IV of C. L. (See Table of Acts, on p. 38.)

² See III, 9.

³ For provisions, in full, see subsecs. a and b of this section.

⁴ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company or a corporation. (See Appendix, p. 35.)

PART III—Continued.

purposes, except such as are reserved by the owner, or for which permission to cut has been given as provided in this section. [C. L., sec. 59, subsec. 11 (a); * * *; L. 1916, ch. 451, sec. 1.]

b. As to time of removal.—All timber reserved by the owner must be removed from the land within fifteen years after the service of notice of reservation or the making of the contract of purchase, subject to reasonable regulations to be prescribed by the commission; such land shall not be cut over more than once, and said commission may prescribe reasonable regulations for the purpose of enforcing this limitation. **Forfeiture of title.**—All timber reserved, and not removed from the land within such time, shall thereupon become and be the property of the state, and all title or claim thereto by the original owner, his legal representatives or assigns, shall thereupon be deemed abandoned. [C. L., sec. 59, subsec. 11 (b); * * *; L. 1916, ch. 451, sec. 1.]

c. As to use of waters for removal.—Persons¹ entitled to cut and remove timber under this article may use streams or other waters of the state within the forest preserve counties for the purpose of removing such timber, under such regulations and conditions as may be prescribed or imposed by the commission. **Liability for damages suffered by state.**—The persons using such waters shall be liable for all damages suffered by the state or any person caused by such use. [C. L., sec. 59, subsec. 19; * * *; L. 1916, ch. 451, sec. 1.]

d. As to payments:

¶1. **Payment is deferred until the following conditions are complied with.**—A person¹ who reserves timber as provided in this article² shall not be entitled to any compensation for the value of the land purchased or taken and appropriated by the state, or for any damages caused thereby, until [:]

(a) **Timber has been removed.**—The timber so reserved is all removed and the object of the reservation fully consummated; or

(b) **Time limit for removal has expired, or right of removal has been waived.**—The time limited for the removal of such timber has fully lapsed, or the right to remove any more timber is waived by a written instrument filed with said commission; and

(c) **Commission satisfied that no cause of action by State exists against owner.**—Said commission is satisfied that no trespass on state lands has been committed by such owner, or his assigns, or legal representatives; that no timber or other property of the state, not so reserved, has been taken, removed, destroyed, or injured by him or them, and that a cause of action in behalf of the state does not exist against him or them for any alleged trespass or other injury to the property or interests of the state; and

(d) **Rules and regulations have been fully complied with.**—That the owner, his assignee or other legal representatives, has fully complied with all rules, regulations

and requirements of said commission concerning the use of streams, or other property of the state, for the purpose of removing such timber. **Proviso: Payment, upon conditions prescribed, may be directed at any time.**—Provided, however, that said commission may at any time by its certificate filed with the comptroller direct the payment to the owner of such land, his legal representatives or assigns, of the compensation therefor, or a part thereof, at such time and upon such conditions as may be set forth in the certificate. [C. L., sec. 59, subsec. 12; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **Interest not payable on purchase price, or award, for value of lands or for damages caused—Exception.**—If timber is reserved upon land purchased or appropriated as provided by this article,¹ interest is not payable upon the purchase price, or the compensation which may be awarded for the value of such land, or for damages caused by such appropriation, except as provided in subdivision seven of this section.² [C. L., sec. 59, subsec. 17; * * *; L. 1916, ch. 451, sec. 1.]

10. Procedure in Taking Possession of Lands, Under Both Conservation and Bond Issue Appropriation Acts.³

a. A description of such lands, properly endorsed, is filed in the office of the Secretary of State.—An accurate description of such property so entered upon and appropriated⁴ shall be made by the commission, who shall certify under its seal that the description is correct, and shall endorse thereon a notice that the property described therein is appropriated by the people of the state of New York for the purpose described in this section.⁵ The original of such description and certificate shall be filed in the office of the secretary of state. The conservation commission may make such additional copies of this certificate and description as may be necessary and certify the same. [C. L., sec. 59, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

b. ¶1. One copy of such endorsed description given, in person, or otherwise, to the owner of the lands, completes the procedure.—The said commission shall thereupon cause a duplicate of said description and certificate, with notice of the date of filing thereof in the office of said secretary of state, to be served on the owner or owners of the lands, forests, and rights in timber upon such lands and waters so appropriated; and from the time of such service the entry upon and appropriation by the people of the state of the property described in such notice shall be deemed complete, and thereupon such property shall become, and be, the property of the people of the state. **Effect upon status of lands.**—Such notice shall be conclusive evidence of an entry and appropriation by the state; but the service of such notice shall raise no presumption that the lands, forests, and rights in timber

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company or a corporation. (See Appendix, p. 35.)

² Article IV of C. L. (See Table of Acts, on p. 38.)

¹ Article IV of C. L. (See Table of Acts, on p. 38.)

² Sec III, 12.

³ See III, 5b.

⁴ See III, 5a, b.

⁵ Sec. 59 of C. L. (See Table of Acts, on p. 38.)

PART III—Continued.]

upon such lands described therein are private property. [C. L., sec. 59, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Service of the notice and papers provided for under subdivision three must be personal if the person to be served can be found within the state. If the person to be served falls within any of the classes mentioned in section four hundred and thirty-eight of the code of civil procedure, the provisions of article second, title one of chapter five of the code of civil procedure relating to the service of a summons in an action in the supreme court, shall apply, so far as practicable, to the service of such notice and papers. [C. L., sec. 59, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

c. A second copy of such endorsed description, together with evidence that the owner has been duly notified, to be filed in the office of the county court.—Said commission shall thereupon cause a duplicate of such description, certificate, and notice of filing, with an affidavit of due service thereof on such owner or owners, to be recorded in the books used for recording deeds in the office of the clerk of any county in this state in which any of the property described therein may be situated; [Evidence of due service of notice.—]and the record of such notice, and of such proof of service, shall be presumptive evidence of due service thereof. [C. L., sec. 59, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

11. Payment for Lands Acquired through Agreement with the Owner, Incident to Entry and Appropriation, and for Damages Caused Thereto.

¶1. Commission may adjust, by agreement with owner, payment for lands, and for any damages caused. (Applies under both Conservation Law and Bond Issue Appropriation Act.¹)—Claims for the value of the property appropriated, and for legal damages caused by any such appropriation, may be adjusted by the commission, if the amount thereof can be agreed upon with the owner or owners thereof. Commission certifies to comptroller amount due.—Upon making any such adjustment and agreement the commission shall deliver to the comptroller a certificate stating the amount due to said owner on account of such appropriation of his land or other property, [Payment made upon warrant of the comptroller.—]and the amount so fixed shall be paid by the treasurer upon the warrant of the comptroller. [C. L., sec. 59, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Value of any timber reserved must be taken into consideration in determining amount of compensation.—If timber be reserved, its value at the time of making an agreement between the owner and said commission for the value of the land so appropriated, and the legal damages caused thereby, or at the time of the presentation to the court of claims of a claim for such value and damages, shall be taken into consideration in determining the compensation to be awarded to the owner on account of such appropriation either by such agreement

or by the judgment rendered upon such a claim. [C. L., sec. 59, subsec. 13; * * *; L. 1916, ch. 451, sec. 1.] (See also III, 8 a.)

¶3. Amount of damages and penalties for trespass or other injuries to lands may be adjusted by commission, and must be deducted from the compensation agreed upon, or amount awarded by court.—In case of trespasses or other injuries to lands or property purchased or acquired by the state the commission may settle and adjust any claims for damages due to the state on account of any such trespasses or other injuries to property or interests of the state, or penalties incurred by reason of such trespasses or otherwise, and the amount of such damages or penalties so adjusted shall be deducted from the original compensation agreed to be paid for the land, or for damages, or from a judgment rendered by the court of claims on account of the appropriation of such land. Judgments recovered by State for such trespass or injuries must also be deducted from payments for lands.—A judgment recovered by the state for such a trespass or for a penalty shall likewise be deducted from the amount of such compensation or judgment. [C. L., sec. 59, subsec. 14; * * *; L. 1916, ch. 451, sec. 1.]

Amount of any lease, mortgage, or other encumbrance must be deducted from payments for lands. (See III, 8a.)

¶4. Commission must certify to the comptroller that these conditions have been complied with, in advance of issuance of warrant for amount of compensation agreed upon, or amount awarded by court.—A warrant shall not be drawn by the comptroller for the amount of compensation agreed upon between the owner and said commission, nor for the amount of a judgment rendered by the court of claims, until a further certificate by the commission is filed with the comptroller to the effect that the owner has not reserved any timber and that he, his assignee or other representative, has complied with the provisions of this article,¹ or has otherwise become entitled to receive the amount of the purchase price, award or judgment. [C. L., sec. 59, subsec. 16; * * *; L. 1916, ch. 451, sec. 1.]

For special procedure under the bond issue appropriation act, see III, 13.

12. Payment for Lands Acquired Through Court Procedure, Incident to Entry and Appropriation, and for Damages Caused Thereto. (Applies Under Both Conservation and Bond Issue Appropriation acts².)

¶1. Court of claims may determine value of lands and legal damages due, when commission and owner fail to agree thereon.—If the commission and the owner or owners of the property so appropriated fail to agree upon the value of such property, or upon the amount of legal damages resulting from such appropriation, within one year after the service of the notice and papers provided for in section sixty-eight³ of this chapter, such owner

¹ Article IV of C. L. (See Table of Acts, on p. 38.)

² See III, 5b.

³ Sec. 68 has been revised and renumbered as sec. 59, subsec. 3. (See III, 10b ¶1.)

¹ See III, 5 b.

PART III—Continued.]

may, within two years after the service of such notice and papers, present to the court of claims a claim for the value of such land and legal damages; and said court shall have jurisdiction to hear and determine such claim and render judgment thereon. **Payment made upon warrant of comptroller.**—Upon filing in the office of said commission, and in the office of the comptroller, a certified copy of the judgment of the court of claims, and a certificate of the attorney-general that no appeal from such judgment has been, or will be taken, by the state, or if an appeal has been taken, a certified copy of the final judgment of the appellate court affirming in whole or in part the judgment of the court of claims, the comptroller shall issue his warrant for the payment of the amount due the claimant by such judgment, with interest from the date of the judgment until the thirtieth day after the entry of such final judgment, and such amount shall be paid by the treasurer. [C. L., sec. 59, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **Court may examine lands and secure local testimony.**—The court of claims, if requested by the claimant or the attorney-general, shall examine the real property affected by the claim of damages for the appropriation thereof and take testimony in relation thereto in the county where such property or a part thereof is situated. [C. L., sec. 59, subsec. 8; * * *; L. 1916, ch. 451, sec. 1.]

¶3. **Judgment must show encumbrances upon property.**—When a judgment for damages is rendered for the appropriation of any lands or waters for the purposes specified in this article, and it appears that there is any lien or encumbrance upon the property so appropriated, the amount of such lien shall be stated in the judgment, and * * * [C. L., sec. 59, subsec. 15; * * *; L. 1916, ch. 451, sec. 1.]

Value of any timber reserved must be taken into consideration in determining amount of compensation. (Sec III, 11 ¶2.)

Amount of damages and penalties for trespass or other injuries to lands also deducted. (Sec III, 11 ¶3.)

¶4. **Taxing of costs and disbursements.**—If an offer is made by said commission for the value of land appropriated, or for damages caused by such appropriation, and such offer is not accepted, and the recovery [of the amount awarded] in the court of claims exceeds the offer, the claimant is entitled to costs and disbursements as in an action in the supreme court, which shall be allowed and taxed by the court of claims and included in its judgment. If in such a case the recovery in the court of claims does not exceed the offer, costs and disbursements to be taxed shall be awarded in favor of the state against the claimant and deducted from the amount awarded to him; or if no amount is awarded, judgment shall be entered in favor of the state against the claimant for such costs and disbursements. If an offer is not accepted, it can not be given in evidence on the trial. [C. L., sec. 59, subsec. 18; * * *; L. 1916, ch. 451, sec. 1.]

¶5. **Comptroller may deposit in bank amount awarded, subject to payment under the judgment.**—* * * the comptroller may deposit the amount awarded to the claimant in any bank in which moneys belonging to the state may be deposited, to the account of such judgment, to be paid and distributed to the persons entitled to the same as directed by the judgment. [C. L., sec. 59, subsec. 15; * * *; L. 1916, ch. 451, sec. 1.]

Commission must certify to the comptroller that required conditions have been complied with, in advance of payment of amount of award or judgment. (See III, 11 ¶4.)

13. Restrictions on Payment for Lands Acquired Under the Bond Issue Appropriation Act.¹

Payment made only upon warrant and audit of comptroller, based on approved vouchers of conservation commission and commissioners of the land office, with certificate of attorney general, as to title and conveyance of lands purchased.—No moneys appropriated by this act¹, shall be paid out for any purpose, other than to pay judgments of the court of claims², except upon the warrant and audit of the comptroller and only after submission to him of vouchers therefor approved by the conservation commission and by the commissioners of the land office, accompanied, in the case of payments for lands acquired by contract, with the certificate of the attorney-general approving the title to and conveyance of lands purchased. [L. 1917, ch. 146, sec. 3.]

14. Appropriation of Funds, Under Bond Issue Appropriation Act.

¶1. **Issuance and sale of bonds authorized.**—Whenever the comptroller shall receive from the conservation commission an estimate in writing, approved by the commissioners of the land office, of the amount of moneys presently required for the objects and purposes of such appropriation, he shall issue and sell bonds, pursuant to chapter five hundred and sixty-nine of the laws of nineteen hundred and sixteen,³ to the amount of such estimate. The approval of such estimate by the commissioners of the land office shall be by resolution, which shall be attached to the estimate. [L. 1917, ch. 146, sec. 5.]

¶2. **Appropriation made of \$2,500,000 for acquirement of lands for state park purposes within the forest preserve counties.**—The sum of two million five hundred thousand dollars (\$2,500,000) is hereby appropriated out of moneys realized from the sale of bonds⁴ issued in accordance with the provisions of chapter five hundred and sixty-nine of the laws of nineteen hundred and sixteen,³ to acquire lands pursuant to such chapter for state

¹ L. 1917, ch. 146. (See Table of Acts, on p. 38.)

² Judgments of the court of claims under section fifty-nine of the conservation law shall be paid as therein provided. [L. 1917, ch. 146, sec. 3.] See also III, 12.

³ See volume of session laws.

⁴ The [Bond Issue] enabling act concerning this bond issue contains also the following provisions:

"The moneys realized from such bonds, after appropriation by the legislature, shall be available for payment of the purchase price, where lands are acquired by contract, and for the payment of judgments and awards in case of proceedings by condemnation or by entry and appropriation." [L. 1916, ch. 569, sec. 4.]

PART III—Continued.]

park purposes within the forest preserve counties, which lands, if owned by the state on the seventh day of November, nineteen hundred and sixteen, under the existing law would be part of the forest preserve. [L. 1917, ch. 146, sec. 1.]

LANDS LEVIED UPON FOR GENERAL PROPERTY TAXES, AND BRIDGE AND HIGHWAY LOANS.

15. Assessment of Taxes.

Assessed and taxed at like valuation and rate as similar private lands.—All wild or forest land within the forest preserve and also all such lands owned by the state in the towns of Altona and Dannemora, county of Clinton, except the lands in the town of Dannemora upon which buildings and inclosures are erected and maintained by the state for the use of state institutions, together with said buildings thereon, shall be assessed and taxed at a like valuation and rate as similar lands of individuals within the counties where situated. **Assessment roll recorded in office of comptroller and of conservation commission.**—**Amount of forest and state lands shown.**—On or before August first in every year the assessors of the town within which the lands so belonging to the state are situated shall file in the office of the comptroller and of the conservation commission, a copy of the assessment-roll of the town, which in addition to the other matter now required by law, shall state and specify which and how much, if any, of the lands assessed are forest lands, and which and how much, if any, are lands belonging to the state; such statements and specifications to be verified by the oaths of a majority of the assessors. **Assessment subject to readjustment upon request of commission.**—The comptroller shall thereupon and before the first day of September following, and after hearing the assessors and the conservation commission, if they or any of them so desire, correct or reduce any assessment of state lands which may be in his judgment an unfair proportion to the remaining assessment of land within the town, and shall in other respects approve the assessment and communicate such approval to the assessors. **Comptroller approves assessment.**—No such assessment of state lands shall be valid for any purpose until the amount of assessment is approved by the comptroller, and such approval attached to and deposited with the assessment roll of the town, and therewith delivered by the assessors of the town to the supervisors thereof or other officer authorized to receive the same from the assessors. [Tax L., sec. 22; L. 1912, ch. 245, sec. 1.]

16. Levy of Taxes.

a. Taxes for school house or road purposes may be imposed on state lands only if approved by commission.—No tax for the erection of a schoolhouse or opening of a

road shall be imposed on the state lands unless such erection or opening shall have first been approved in writing by the conservation commission. [Tax L., sec. 22; L. 1912, ch. 245, sec. 1.]

b. Amount of tax credited to county treasurer, on account.—The treasurer of the state, upon the certificate of the comptroller as to the correct amount of such tax, shall pay the tax levied upon state lands in the forest preserve, by crediting to the treasurer of the county in which such lands may be situated, such taxes, upon the amount payable by such county treasurer to the state for state tax. No fees shall be allowed by the comptroller to the county treasurer for such portion of the state tax as is so paid. [Tax L., sec. 80.]

17. Loans for Bridge and Highway Purposes.

a. Throughout the forest preserve.

¶1. **On certificates of indebtedness in anticipation of taxes.**—The supervisor may, when authorized by the town board, borrow money in anticipation of taxes to be levied and collected, on the credit of the town, and issue certificates of indebtedness therefor in the following cases [for bridge and highway purposes]: * * * [Highway L.,¹ sec. 96.]

¶2. **On bonds or other obligations.**—A proposition may be submitted at a regular or special town meeting in the manner provided by the town law, authorizing the town to borrow money upon its bonds, or other obligations, to be expended for the following purposes [bridge and highway purposes]:

* * * *

If the town adopting any such proposition shall contain any portion of the land of the forest preserve, the board of supervisors shall not authorize such town to borrow moneys without the written approval of the * * * [conservation] commissioner, except in payment of a debt lawfully incurred by the town. [Highway L., sec. 97; L. 1914, ch. 202, sec. 1.]

b. Within the Adirondack park.

Certain loans authorized above are null and void unless approved in advance by the state comptroller.—No money shall be borrowed, as provided in sections ninety-six and ninety-seven of this act,² by a town containing lands of the Adirondack park, where the assessed value of the real property of the state equals or exceeds twenty-five per centum of the assessed value of the taxable property of the town, until the consent, in writing, of the state comptroller that such loan or loans be made, be procured and filed in the office of the town clerk of the town intending to negotiate the loan or loans. Any loan made in violation of this section, for an indebtedness thereby intended to be created, shall be null and void and no moneys of the town shall be paid thereon. [Highway L., sec. 97-a; L. 1917, ch. 565, sec. 1.]

¹ The following property shall be exempt from taxation:

1. * * *

2. Property of this state other than its wild or forest lands in the forest preserve. [Tax L., sec. 4.]

¹ The highway law is contained in L. 1909, ch. 30, and its equivalent, ch. 25 of the consolidated laws.

² See subsec. a ¶1, ¶2.

PART III—Continued.]

ADMINISTRATIVE OFFICERS' GENERAL POWERS AND DUTIES.

18. Have Care and Control of State Owned Lands within State Forests.

[The commission shall] Have the care, custody, and control of the several preserves, parks,² and other state lands described in this article.³ [C. L., sec. 50, subsec. 1; * * * ; L. 1916, ch. 451, sec. 1.]

Acquire control of additional lands therein by means of: Purchase (see III, 4); Entry and appropriation—(see III, 5); Gift or devise (see III, 6); Tax sales effected through the comptroller (see III, 7).

Include in each annual report a description of all lands purchased during the year, and statement as to any trespass upon state lands; and publish and distribute special reports, for information of the public. (See I, 29.)

Maintain state forest nurseries and use trees therefrom to reforest state lands. (See I, 24.)

Laws relating to care and management of state forests are administered under the division of lands and forests. (See I, 11 ¶1.)

19. Have Custody of Abstracts of Titles, Contracts, etc.

[The commission shall] Have the custody of all abstracts of title, papers, contracts or memoranda relating thereto, [Original deeds excepted.—] except original deeds to the state, for any lands purchased for forest preserve purposes. [C. L., sec. 50, subsec. 13; * * * ; L. 1916, ch. 451, sec. 1.]

20. Survey and Determine Boundaries of State Lands.

[The commission shall] Survey, map and determine boundaries of lands owned by the state. [C. L., sec. 50, subsec. 15; * * * ; L. 1916, ch. 451, sec. 1.]

21. Make Rules and Regulations, and Issue Permits for Use of Lands.

[The commission] May make rules, regulations and issue permits for the temporary use of the forest preserve. [C. L., sec. 50, subsec. 28; * * * ; L. 1916, ch. 451, sec. 1.]

(See also I, 21.)

Certain Additional Powers and Duties.

Approve the reservation of timber rights on lands being acquired for forestry purposes (see III, 8b); and prescribe and enforce conditions and regulations concerning such rights. (See III, 9.)

Take required action concerning taking possession of lands. (See III, 10.)

Enter into an agreement with owner as to payment for land being acquired under entry and appropriation proceedings, and for damages caused thereby (see III, 11); and

¹ The several officers who are concerned in these general powers and duties are the commissioner, deputy commissioner (see I, 3, 9), superintendent of forests (see I, 16), and assistant superintendent of forests (see I, 17).

² The text matter concerning these park reservations other than state forests has been placed in the Appendix (pp. 33–35), since it is not deemed altogether pertinent to this compilation of forestry laws, even though incidental forestry may be practiced on the reservations.

³ Article IV of C. L. (See Table of Acts, on p. 38.)

certify to the comptroller the fulfillment of its conditions, in advance of payment. (See III, 11 ¶4.)

Approve, and submit to comptroller, vouchers for payment in cases of lands acquired under the bond issue appropriation act, except in cases involving court of claims procedure. (See III, 13.)

Submit to comptroller approved estimate of moneys required to acquire lands under the bond issue appropriation act. (See III 14 ¶1.)

May request a hearing by the comptroller as to the fairness of assessment on State lands within the forest preserve. (See III, 15.)

Approve the erection of school houses and opening of roads, in advance of tax therefor being imposed upon state lands within the forest preserve. (See III, 16.)

Approve loans, for bridge and highway purposes, to be negotiated through bonds or other obligations by towns containing forest preserve lands. (See III, 17 ¶1, ¶2.)

Issue permits for erecting and maintaining buildings upon the forest preserve for:

a. Purposes in general. (See III, 2b ¶1.)

b. In connection with working mines. (See III, 2b ¶2.)

Dispose of improvements upon the forest preserve. (See III, 2d.)

Authorize removal, from state lands, of material belonging to the state. (See III, 2e.)

Bring actions or proceedings for:

Enforcing rights of state in real property. (See III, 26.)

Determining questions of land titles. (See III, 26.)

Cancelling or setting aside cancellations of tax sales. (See III, 26.)

Superintendent of forests directs the locating of boundaries of State lands. (See III, 23.)

COMMISSIONERS OF THE LAND OFFICE.

Powers and Duties.

Approve purchases of lands. (See III, 4b.)

Approve vouchers for payment in cases of lands acquired under the bond issue appropriation act, except in cases involving court of claims procedure. (See III, 13.)

Grant permits for working mines. (See III, 2c.)

STATE COMPTROLLER.

Powers and Duties.

Is required to issue a warrant, supported by duly approved vouchers, as a basis for payment in cases of lands acquired under the bond issue appropriation act, except in those involving court of claims procedure. (See III, 13.)

Issues warrant, for payment of amount of award, to owner of lands acquired through court proceedings. (See III, 12 ¶1.)

Deposits in bank amount so awarded, subject to payment under the judgment. (See III, 12 ¶5.)

Issues and sells bonds under bond issue appropriation act. (See III, 14 ¶1.)

Grants hearings, upon request of commission, concerning assessments on State lands within the forest preserve. (See III, 15.)

PART III—Continued.]

Approves assessments on State lands within the forest preserve. (See III, 15.)

Validates, by his approval, proposed town loans for bridge and highway purposes in the Adirondack park, only, on:

a. *Town certificates of indebtedness.* (See III, 17a ¶1, b.)

b. *Town bonds and other obligations.* (See III, 17a ¶2, b.)

FORESTERS AND ASSISTANT FORESTERS.

General Cross-References.

Perform such duties in connection with reforestation, fire protective work, surveys, investigations, and other lines of forestry on State forests, as may be required. (See I, 18.)

DISTRICT FOREST RANGERS.¹

General Cross-Reference.

Have direction of the protection of State lands from fire and trespass. (See II, 9.)

CHIEF LAND SURVEYOR.

22. Salary.

A chief land surveyor [is hereby authorized], who shall receive a salary of two thousand four hundred dollars per annum; and who * * * [C. L., sec. 51, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

23. Determines Boundaries of State Lands, under Direction of Superintendent of Forests.

[The chief land surveyor] shall, under the direction of the superintendent of forests, have charge of locating and determining the boundaries of state land. [C. L., sec. 51, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

General Cross-References.

Appointment. (See I, 9 ¶2, ¶3.)

Competitive civil service requirement. (See I, 14.)

Expenses. (See I, 26.)

May arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16 ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

LAND CLERK.

24. Salary.

A land clerk [is hereby authorized] at two thousand dollars per annum, who * * * [C. L., sec. 51, subsec. 8; * * * ; L. 1916, ch. 451, sec. 1.]

25. Records Titles to State Lands, and Performs Other Duties Assigned Him.

[The land clerk] shall be employed in filing and preparing records of state's title to lands and perform such other duties as may be assigned him. [C. L., sec. 51, subsec. 8; * * * ; L. 1916, ch. 451, sec. 1.]

¹ The provisions, in general, concerning district forest rangers are contained in Part II. (See p. 7.)

Performs such other duties as the commission may require. (See I, 10.)

General Cross-References.

Appointment. (See II, 9 ¶2, ¶3.)

Competitive civil service requirement. (See I, 14.)

Expenses. (See I, 26.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

LEGAL PROCEDURE.

(See also Part II, p. 15.)

26. Purposes for which Proceedings may be Instituted by the Commission.

Preamble. [The commission may] Bring any action or proceeding for the following purposes: [C. L., sec. 50, subsec. 11, preamble; * * * ; L. 1916, ch. 451, sec. 1.]

¶1. **Enforcing rights of state in real property.**—[The commission may bring] Any action or proceeding, for the purpose of enforcing the state's rights or interests in real property, which an owner of land would be entitled to bring in like cases. [C. L., sec. 50, subsec. 11 (a); * * * ; L. 1916, ch. 451, sec. 1.]

¶2. **Determining questions of land titles.**—[The commission may bring any action or proceeding] To determine in trespass, ejectment or other suitable actions the title to any land claimed adversely to the state. [C. L., sec. 50, subsec. 11 (c); * * * ; L. 1916, ch. 451, sec. 1.]

¶3. **Cancellation, or setting aside cancellations, of tax sales.**—[The commission may] Bring proceedings before the comptroller or bring actions to cancel tax sales or to set aside cancellations of tax sales.¹ [C. L., sec. 50, subsec. 11 (d); * * * ; L. 1916, ch. 451, sec. 1.]

27. Settlements in Cases of Pending Actions.

No action, suit or proceeding in which the title to lands of the state in forest preserve counties shall be involved shall be withdrawn or discontinued, nor shall judgment therein against the state be entered on consent except on special permission of the court and after application made in open court, on which application all the terms and conditions of the settlement shall be fully stated in writing and the reasons therefor set forth at length. [C. L., sec. 9; * * * ; L. 1915, ch. 318, sec. 7.]

The commission is expressly inhibited from undertaking such settlements. (See II, 53a ¶1.)

General Cross-References.

Special provision as to damages and penalty for negligently causing forest fires on state lands. (See II, 59 preamble, a.)

Costs of fire-fighting may be recovered, in addition to damages and penalties. (See II, 62.)

General provisions as to liability for violations of provisions of Article IV^a of C. L., or failure to perform duties thereunder: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

¹ See III, 7.

^a See Table of Acts, on p. 38.

PART III—Continued.]

MUNICIPAL FORESTS.**28. Municipalities¹ Authorized to Acquire Lands for Forestry Purposes.**

a. By purchase, gift, lease, or condemnation. (G. M. L.²)—The governing board of a county, town or village may severally acquire for such county, town or village, by purchase, gift, lease or condemnation, and hold as the property of such municipality, tracts of land having forests or tree growth thereon, or suitable for the growth of trees, [May appropriate necessary funds therefor.—] and may appropriate therefor the necessary moneys of the county, town or village for which the lands are acquired. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. By purchase, gift, or utilizing municipally owned lands. (C. L.)—A county, city, town, or school district may acquire by purchase, or gift, or take over lands in its possession within the boundaries thereof and use the same for forestry purposes.³ [C. L., sec. 60, preamble; * * *; L. 1916, ch. 451, sec. 1.] (See also III, 32*b*, ¶1.)

29. Publication of Intention to Acquire Lands for Forestry Purposes.*a. Under the general municipal law.*

¶1. The determination of any such board to acquire lands under the provisions of this section shall be by resolution; but the question of the final adoption of such resolution shall be taken up by the board only after public notice thereof has been published for at least two weeks, as follows: [By county boards.—] If it be a resolution of a board of supervisors, the publication shall be made in the newspapers in which the session laws and concurrent resolutions are required to be published;⁴ [By town or village boards.—] if it be a resolution of a town board or of a board of trustees of a village, the publication shall be made in a newspaper published in the town or village, respectively.

¶2. The board shall give a hearing to all persons appearing in support of or in opposition to such proposed resolution. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. Under the conservation law.

Such boards may undertake such work at regular or special meetings by majority vote of such board after two weeks public notice setting forth the fact that such plan is contemplated and that moneys are to be appropriated for such purposes. [C. L., sec. 60, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

¹ The term "Municipalities" embraces counties, towns, and villages, as applied under the general municipal law, and counties, cities, towns, and school districts, under the conservation law.

² The abbreviation, "G. M. L.," as used in this compilation, indicates the general municipal law (ch. 29, L. 1909, and its equivalent, ch. 24 of the consolidated laws, both as amended through 1917).

³ See also III, 2 preamble, and footnote 3 thereto.

⁴ See county law (L. 1909, ch. 16), sec. 20; legislative law (L. 1909, ch. 37), sec. 48, as amended by L. 1911, ch. 97.

30. Funds for Purchase of Lands Provided.*a. Through taxation, or bond issue. (G. M. L.)*

If it be determined to purchase such lands the moneys necessary therefor may be provided as follows: [By counties.—] If the acquisition be by a county, the board of supervisors may cause such moneys to be raised by taxation and levied and collected as other county taxes, or may borrow money therefor on the credit of the county by the issuance and sale of county bonds in the manner provided for by law¹ for the issuance and sale of other county obligations; [By towns.—] if the acquisition be by a town, the moneys necessary therefor shall constitute a town charge and be raised by taxation as other town charges, or the town board may in its discretion cause town bonds to be issued and sold in the manner provided by law for the issuance and sale of town bonds, under the town law,² to pay judgments; [By villages.—] if the acquisition be by a village, the moneys therefor may be raised by taxation, as other village taxes, or by the issuance and sale of village bonds in the manner provided by the laws³ governing such village relating to village obligations, after the adoption of a resolution therefor by the board of trustees, without other authorization. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. Through appropriation, or bond issue. (C. L.)

The governing board of a county, city, town, or school district may appropriate money or issue bonds either for purchase of lands for the purposes herein provided, * * * [C. L., sec. 60, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

(See also III, 32*b* ¶1.)

31. Funds for Management of Lands Provided.*a. Through appropriation of moneys raised by taxation. (G. M. L.)*

Moneys may be appropriated for the care and maintenance of such lands and the development and use of forests thereon annually, by the county, town, or village, respectively, and the amount thereof raised by taxation in the same manner that other expenditures of such county, town, or village are provided for by law. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. Through appropriation of moneys, or bond issue. (C. L.)

[The governing board of a county, city, town, or school district may appropriate money or issue bonds] to establish forest plantations or for the care and managements⁴ of forests. [C. L., sec. 60, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.] (See also III, 32*b* ¶1.)

32. Management and Use of Lands Are Under Control of the Governing Boards.*a. Under the general municipal law.*

¶1. Such lands shall be under the management and control of such board [county, town, or village, as the

¹ See general municipal law (L. 1909, ch. 29), art. 2; county law, sec. 235, as added by L. 1909, ch. 466, and amended by L. 1910, ch. 8.

² L. 1909, ch. 63, sec. 139.

³ See village law (L. 1909, ch. 64), secs. 129, 130.

⁴ So in the original.

PART III—Continued.]

case may be] and shall be developed and used for the planting and rearing of trees thereon and for the cultivation thereof according to the principles of scientific forestry, for the benefit and advantage of the county, town, or village. * * * ¶2. **Lands are subject to rules and regulations prescribed by such boards.**—Such forest lands shall be subject to such rules and regulations as such governing board of the municipality shall prescribe; [Principal objects of management.—] but the principal object to be conserved in the maintenance of such lands shall be the sale of forest products in aid of the public revenues and the protection of the water supply of the municipality. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. **Under the conservation law.**

¶1. Such governing board [county, city, town, or school district, as the case may be] shall have full power and authority to acquire, maintain, manage and operate such forests for the benefit of the inhabitants of its district. [C. L., sec. 60, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **Assistance in reforestation work may be secured from the conservation commission, and also trees without cost.**—The conservation commission may assist and advise such boards in its [their] reforesting work, and the commission may furnish trees for reforesting such publicly owned lands without charge provided they are planted in accordance with the instructions of the commission. [C. L., sec. 60, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

33. Proceeds From Lands Turned Into the Several Municipal Treasuries.a. **Under the general municipal law.**

For general purposes and reduction of taxes.—All revenues and emoluments from lands so acquired shall belong to the municipality and be paid to its chief fiscal officer for the purposes of such municipality and in reduction of taxation therein. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. **Under the conservation law.**

To be used only upon order of their several governing boards.—The net income from such lands shall be paid into the general fund of such municipal division and shall be used only upon order of its governing board. [C. L., sec. 60, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

34. Sale or Lease of Lands.a. **Under the general municipal law.**

May be effected upon a two-thirds vote of the members of their several governing boards.—Such lands or portions thereof may be sold and conveyed, or leased, if a resolution

¹ The term "such municipal division" as used in this section, has reference to a county, city, town, or school district, as shown in the preceding provisions in sec. 60 of the conservation law. (See Table of Acts, on p. 38.)

therefor be adopted by the affirmative vote of two-thirds of all the members of such governing board; [Public hearing, after due published notice, required in case of absolute conveyance.—] but no such resolution directing an absolute conveyance shall be effectual unless adopted after a public hearing, held upon notice given in the manner required in the case of a resolution to acquire such lands. [Officers by whom deeds of conveyance or leases may be executed.—] A deed of conveyance or lease of such lands, when authorized as aforesaid, shall be executed by the county treasurer of the county, supervisor of the town or president of the village by which the conveyance or lease is made. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. *No provision is made in the conservation law for sale or lease of municipal forest lands.*

Powers and Duties of Municipal Boards.

Authorized to acquire lands, for forestry purposes, by:

Purchase, gift, lease, or condemnation (G. M. L.). (See III, 28a.)

Purchase, gift, or utilizing municipally owned lands (C. L.). (See III, 28b.)

Publish notice of intention to so acquire lands (G. M. L. and C. L.). (See III, 29.)

Provide funds for purchase of lands through:

Taxation or bond issue (G. M. L.). (See III, 30a.)

Appropriation or bond issue (C. L.). (See III, 30b.)

Provide funds for management of lands through:

Appropriation of moneys raised by taxation (G. M. L.). (See III, 31a.)

Appropriation of moneys, or bond issue (C. L.). (See III, 31b.)

Control the management and use of lands (G. M. L. and C. L.). (See III, 32.)

Obtain assistance in reforestation work, and also trees, from conservation commission. (See III, 32b ¶2.)

Control, by special authority, use of funds derived from proceeds from the lands (C. L.). (See III, 33b.)

Sell and convey, or lease the lands, or portions thereof (G. M. L.). (See III, 34a.)

General Cross References.

The conservation commission cooperates with the governing board in reforestation work. (See III, 32b ¶2.)

Special provision as to damages for causing fires either negligently or willfully on lands belonging to a municipality. (See II, 59 preamble, b, c, 61.)

Costs of fire-fighting may be recovered, in addition to damages and penalties. (See II, 62.)

General provisions as to liability for violations of provisions of Art. IV^a of C. L.: Criminal. (See II, 54, 55.) Civil. (See II, 57.)

^a See Table of Arts, on p. 38.

PART IV.—TAXATION.¹

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning state or municipal forests, or other state lands, see Part III.)

PURPOSE OF FORESTRY TAXATION PROVISIONS.

1. Defined.

a. Planted and underplanted lands.—In consideration of the public benefit to be derived from the planting and growing of forest trees, and to the end that the growth of forest trees may be encouraged and the water supply of the state protected and conserved, and that floods may be prevented, [the owner of lands fulfilling certain conditions² may have his lands subjected to a special form of taxation.] [C. L., sec. 57; * * *; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands.—In order to encourage the maintenance of wood lots by private owners and the practice of forestry in the management thereof, the owner of any tract of land in the state, [fulfilling certain conditions,³ may have his land subjected to a special form of taxation.] [Tax L.,⁴ sec. 17; L. 1912, ch. 363, sec. 1.]

CLASSIFICATION OF FOREST LANDS.

Land Classes Recognized.

a. Planted and underplanted.—(See IV, 2*a*.)

b. Woodlot.—(See IV, 2*b*.)

2. Basis of Classification.

a. Planted and underplanted lands:

¶1. *Character of land.*—[Classification may be secured by] the owner of any waste, denuded or wild forest lands, of the area of five acres or upwards, within the state, which are unsuitable for agricultural purposes, [Forest growth established and maintained.—] who shall agree with the commission to set apart for reforestation or for forest tree culture, the whole, or any specific portion of such waste, denuded or wild forest lands, of the area of five acres or upwards, * * *

¶2. *Valuation of the land.*—[Such] lands shall be valued at the same rate as other waste, denuded or wild forest lands in said tax district, similarly situated; * * *

¶3. *Proviso 1.*—[Such] valuation shall not in any event be greater than the average valuation at which the same lands were assessed for the last five years preceding the date of said application, or the value of such lands as appears by the aforesaid sworn statements of the assessors of such tax district, * * * ¶4. [Proviso 2.—] * * * and [such lands may be classified only if it can be shown that they] have not been assessed during the period of

¹ Part IV comprises an analysis of the forest taxation provisions contained in the "wood-lot act" (ch. 363, L. 1912), and in sec. 57 of the conservation law. A third act (ch. 249, L. 1912) is placed in the Appendix (sec. p. 35). This additional act is omitted from the above analysis for the reason that it overlaps to a large extent the other two acts and its inclusion would obscure their well-balanced scope.

² See IV, 2*a*.

³ See IV, 2*b*.

⁴ "Tax L.," as used in this compilation of the forestry laws of New York, indicates the tax law (ch. 62, Laws 1909, and its equivalent, ch. 60, of the consolidated laws, both as amended through 1917).

five years next preceding the date of such application at an average valuation of more than five dollars per acre, or that similar lands in said vicinity have not been assessed for more than five dollars per acre, * * * [C. L., sec. 57; * * *; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands:

Acreage, character and location of land.—[Classification may be secured for any tract of land,] not exceeding fifty acres, which is occupied by a natural or planted growth of trees, or by both, which shall not be situated within twenty miles of the corporate limits of a city of the first class, nor within ten miles of the corporate limits of a city of the second class, nor within five miles of the corporate limits of a city of the third class, nor within one mile of the corporate limits of an incorporated village, * * * [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

Valuation of such lands shall be the same as other similar adjacent lands which contain no forest or tree growth, and shall not exceed \$10 an acre. (See IV, 8*b*.)

Lands must be maintained as a production woodlot, in compliance with the provisions of the act and the instructions of the commission. (See IV, 8*b*.)

3. Application for Classification.

a. ¶1. Planted and underplanted lands.—[the owner of lands fulfilling certain conditions,¹] may apply to the conservation commission, in manner and form to be prescribed by it, to have such lands separately classified as lands suitable for reforestation or underplanting within the purposes and provisions of this section. *Description and other data.*—Each application for such classification shall be accompanied by a plot and description of the land, and shall state the area, character and location thereof, and such other information in reference thereto as the commission may require; [Valuation certificate of assessors, or sworn statement.—] such application shall be accompanied by a certificate of the assessors of the tax district or districts in which said lands are located, which shall set forth the assessed valuation of said lands for the last five years preceding the date of such application; or if said lands have not been separately assessed during any part of said period, or the timber has been removed therefrom at any time during said period of five years, by a sworn statement of the assessors of the value of said lands, which * * *; ¶2. [Must contain declaration of intention by owner.—] such application shall also contain a declaration that the owner intends to reforest or underplant the lands described in such application with such number and kind of trees per acre and in such manner as the commission shall specify, and to comply with all reasonable rules and regulations of the commission in reference to future care and management of said lands and trees. [C. L., sec. 57; * * *; L. 1916, ch. 451, sec. 1.]

¹ See IV, 2*a*.

PART IV—Continued.]

b. Woodlot lands.—[The owner of any tract of land in the state fulfilling certain conditions¹] may apply to the conservation commission in manner and form to be prescribed by it, to have such land separately classified for taxation. **Form of application.**—Application for such classification shall be made in duplicate and accompanied by a plot and description of the land, and such other information as the commission may require. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

4. Suitability of Lands Investigated by Commission.

a. Planted and underplanted lands.—¶1. If it appears from said application and certificate or sworn statement² that said lands are suitable for reforestation or underplanting purposes * * * ¶2. the said commission shall, as soon as practicable after the receipt of such application, cause an examination to be made of the lands for the purpose of determining whether or not it is of a character suitable to be reforested or underplanted and to be classified as such. [C. L., sec. 57; * * * ; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands.—Upon the filing of such application³ it shall be the duty of the commission to cause an inspection of such land to be made by a competent forester for the purpose of determining whether or not it is of a suitable character to be so classified. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

5. Completion of Classification.**a. Planted and underplanted lands:**

¶1. Commission enters into cooperative agreement with owner for foresting the lands.—After such examination⁴ if the commission shall determine that such lands are suitable for reforestation or underplanting, it is hereby empowered to enter into a written agreement with the owner, which agreement shall be to the effect that the commission will furnish said owner, at a price not to exceed cost of production, trees to be set out upon said lands, the kind and number to be prescribed by the commission, and to be set forth in said agreement; that the owner will set out upon said land the number and kind of trees per acre designated by the commission; and that said land will not be used for any purpose other than forestry purposes, during the period of exemption, without the consent of the commission; and that said lands and the trees thereon will be managed and protected at all times during the period of said exemption in accordance with the directions and instructions of the commission. Said agreement shall be recorded in the office of the county clerk of the county where the lands are situated, and the provisions thereof shall be deemed to be and be covenants running with the land. **Limitation of time for compliance with planting requirements—Proof.**—Within one year after the making of such agreement, said lands shall be planted by the owner with the number and kind of trees specified therein; and the owner shall file with the commission an affidavit making due proof of such planting, which affidavit shall

remain on file in the office of said commission * * *

¶2. **Compliance Constitutes acceptance.**—The planting or underplanting of a tract in forest trees in compliance with the agreement as provided in this section shall be taken and deemed to be an acceptance by the owner of the exemption privileges herein granted and of the conditions herein imposed; * * * ¶3. **Inspection by commission.**—Upon the filing of such affidavit¹ the commission shall cause an inspection of such lands to be made by a competent forester who shall make and file with said commission a written report of such inspection.

¶4. **Certificate of classification issued and recorded in office of county treasurer.**—If the commission is satisfied from said affidavit¹ and report that the lands have been forested in good faith as provided in said agreement, it shall make and execute a certificate under its seal, and file the same with the county treasurer of the county in which the lands or any part thereof so forested are located, which certificate shall set forth a description of said lands, the area and the owner thereof, the town in which the same are situated, a statement that the land has been separately classified for taxation in accordance with the provisions of this section [Must show maximum valuation for the 35-year period.—] and a valuation, in excess of which, said lands shall not be assessed for the period of thirty-five years, which * * * ¶5. [Also exemption provision.—] and a statement that the trees and timber thereon shall be exempt from taxation during said period. [C. L., sec. 57; * * * ; L. 1916, ch. 451, sec. 1.]

Assessors are notified of filing of certificate. (See IV, 8a.)

b. Woodlot lands:

¶1. **Commission furnishes working plan to owner.**—If the commission shall determine that such land² is suitable to be so classified, it shall submit to the owner a plan for the further management of said land and trees [Certificate of classification recorded in county treasurer's office.—] and shall make and execute a certificate under the seal of the commission and file the same with the county treasurer of the county in which the land is located, which certificate shall set forth a description and plot of the land so classified, the area and owner thereof, the town or towns in which the same is situated, and that the land has been separately classified for taxation in accordance with the provisions of this section. **Assessors notified.**—Upon the filing of such certificate it shall be the duty of the county treasurer to file with the assessors of the tax district in which the land described therein is located, within ten days after receipt thereof, a certified copy of such certificate. * * * ¶2. **Lands assessed accordingly.**—The assessors of each tax district where said land so classified is located shall insert upon the margin of said assessment and opposite the description of such land a statement that said land is assessed in accordance with the provisions of this section. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

¹ See IV, 2b.

² See IV, 3a ¶1.

³ See IV, 3b.

⁴ See IV, 4a ¶2.

¹ Making proof of compliance with planting requirements. (See ¶1 of this subsection.)

² See IV, 4b.

PART IV—Continued.]

6. Period of Classification.

a. Planted and underplanted lands:

¶1. Until end of the 35-year exemption period.—Such lands¹ shall be assessed, and continued to be assessed, and carried in such manner, upon the assessment-rolls, of such towns until the end of the exemption period. ¶2. * * * and in consideration of the public benefit to be derived from the planting, underplanting, cultivation and growth of such trees² the exemption of such trees from taxation and the taxation of the land upon which such trees are grown as herein provided, shall be continued and is hereby assured; and the right to such exemption and taxation shall be inviolable and irrevocable as a contract obligation of the state, so long as the owner of the land so planted shall fully comply with and perform the conditions of such contract not exceeding said period of thirty-five years. [C. L., sec. 57; * * * ; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands:

For an indefinite time.—

Assessment continues so long as the owner complies with requirements. (See IV, 8b.)

7. Cancellation of Classification.

a. Planted and underplanted lands.—In the event that lands so classified¹ shall, in the judgment of the commission, cease to be used exclusively for forestry purposes to the extent provided in the agreement between the conservation commission and the owner, or that said owner has violated its terms, or any reasonable rules and regulations of the commission in respect to the use of or the cutting of timber on said lands, the exemption from taxation provided in this section shall no longer apply; [Injunction to restrain use of lands and timber.—] or at the election of the commission such owner may be also restrained from said acts by injunction; [Land, thereafter, assessed under General Property Tax Law.—] and the assessors having jurisdiction shall, upon the direction of the commission, assess said lands against the owner at the value, and in the manner provided by the tax law for general assessment of land. [C. L., sec. 57; * * * ; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands.—In the event that land so classified³ as above prescribed shall at any time by act of the owner or otherwise cease, in the judgment of the commission, to be used exclusively as a wood lot to the extent provided by this section to entitle the owner of such land to the privileges of this section, the exemption and valuation in taxation provided for in this section shall no longer apply [Land, thereafter, assessed under General Property Tax Law.—] and the assessors having jurisdiction shall, upon the direction of the commission assess the said land at the value and in the manner provided by the tax law for the general assessment of land. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

¹ See IV, 5a ¶4.

² See IV, 5a ¶2.

³ See IV, 5b ¶1.

ANNUAL, OR GENERAL PROPERTY, TAX.

8. Assessment.

a. Planted and underplanted lands:

Lands are assessed at a fixed valuation, based on a fair cash value, exclusive of value of tree growth.—Upon the filing of such certificate¹ it shall be the duty of the county treasurer to file with the assessors of each tax district in which the lands described are located, a certified copy thereof, and the assessors of such tax district shall place the lands according to the description contained in said certificate upon the next assessment-roll, prepared for the assessment of lands within such tax district, at a valuation not to exceed the amount stated in said certificate, and not to exceed the assessed valuation of similar lands in said tax district; and said assessors shall insert upon the margin of said assessment-roll opposite the description of said lands, a statement that said lands shall not be assessed during the period of thirty-five years at a value in excess of said amount, and that the trees and timber growing upon said land shall be wholly exempted from taxation during said period; and said assessors shall also insert upon the margin of said assessment-roll the date of expiration of said exemption. [C. L., sec. 57; * * * ; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands:

Lands are assessed at a maximum valuation of \$10.00 per acre, exclusive of value of tree growth.—So long as the land so classified² is maintained as a wood lot, and the owner thereof faithfully complies with all the provisions of this section^a and the instructions of the commission, it shall be assessed at not to exceed ten dollars per acre and taxed annually on that basis. In fixing the value of said lands for assessment, the assessors shall in no case take into account the value of the trees growing thereon, and said land shall not be assessed at a value greater than other similar lands within the same tax district, which contain no forest or tree growth, are assessed. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

Exemption From the Tax.

a. Timber on planted and underplanted lands:

Throughout 35-year classification period. (See IV, 8a.)

b. Trees on woodlot lands:

Throughout an indefinite classification period. (See IV, 8b.)

YIELD TAX.³

9. Preliminary Measures.

Advance notice required of intention to cut.—Whenever the owner shall propose to cut any live trees from

^a See Table of Acts, on p. 38.

¹ See IV, 5a, ¶4.

² See IV, 5b, ¶1.

³ The yield tax applies only to lands classified under the woodlot act. Lands classified as "planted and underplanted" under the conservation law become subject to taxation under the general property tax law at the end of the prescribed 35-year exemption period, unless reclassified under the woodlot act.

PART IV—Continued.]

said land,¹ [Exception. —] except for firewood or building material for the domestic use of said owner or his tenant, he shall give the commission at least thirty days notice prior to the time he desires to begin cutting, [Cutting and removal subject to direction of commission.—] who shall designate for the owner the kind and number of trees, if any, most suitable to be cut for the purpose for which they are desired, and the cutting and removal of the trees so designated shall be in accordance with the instructions of said commission. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

Penalty for failure to give advance notice. (See IV, 11.)

10. Tax Levied After Cutting and Before Using.

Owner files with assessors returns as to measurement, or count, of trees cut, and kind and value thereof.—After such trees² are cut and before their removal from the land, the owner shall make an accurate measurement or count of all of the trees cut and file with the assessors of the tax district a verified, true and accurate return of such measurement or count and of the variety and value of the trees so cut. Pays, before removal, five per cent of stumpage value.—The assessors shall forthwith assess the stumpage value of the timber so cut, and such owner shall pay to the tax collector of the town in which such land is situated, before the removal of any such timber, five per centum of such valuation. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

Penalty for failure to pay tax. (See IV, 11.)

11. Penalty for Failure to Give Notice in Advance of Cutting, or to Pay the Tax.

If such owner shall fail to give such notices and pay such taxes³ he shall be liable to a penalty of three times the amount of such tax, and the supervisor of the town may bring an action to recover the same for the benefit

of the town in any court of competent jurisdiction. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

Exemption from the Tax.

Trees cut for firewood or building material for domestic use. (See IV, 9.)

DUTIES OF FORESTRY OFFICIALS.¹**Concerning Planted and Underplanted Lands.**

Prescribe form of application for classification, and rules and regulations concerning the care and management of lands and trees. (See IV, 3a.)

Investigate suitability of lands described in application for classification. (See IV, 4a ¶2.)

Enter into cooperative agreement with owner for foresting the lands. (See IV, 5a ¶1.)

Cause inspection and report to be made upon planting work. (See IV, 5a ¶3.)

Issue certificate of classification, and record same in office of county treasurer. (See IV, 5a ¶4.)

Determine whether classification of lands shall be canceled; and, in event of cancellation, direct their reassessment under the general property tax law. (See IV, 7a.)

Secure, when necessary, injunction to restrain unlawful use of lands and timber. (See IV, 7a.)

Concerning Woodlot Lands.

Prescribed form of application for classification. (See IV, 3b.)

Investigate suitability of lands described in application. (See IV, 4b.)

Furnish working plan to the owner. (See IV, 5b ¶1.)

Issue certificate of classification, and record same in office of county treasurer. (See IV, 5b ¶1.)

Direct cutting and removal of timber. (See IV, 9.)

Determine whether lands cease, at any time, to be rightly used as a woodlot; and, in such event, direct their reassessment under the general property tax law. (See IV, 7b.)

PART A—APPENDIX.**DEFINITIONS OF THE TERMS "PERSON," "FOREST LAND," "FOREST FIRE," "FIRE TOWNS," AND OTHER TERMS.**

(Conservation Law.)

§ 62. **Definitions.**—The following words and phrases used in this article are defined as follows:⁴

1. * * *⁵

2. **Adirondack park.**—* * * [The following is a description of the boundaries of lands constituting the Adirondack park:] Beginning at the southeast corner of the town of Hope in the county of Hamilton, and running thence westerly along the southerly lines of Hamilton county, and continuing and following the southerly line

of the town of Wilmurt, in Herkimer county to the point of intersection with the westerly line of Herkimer county, and thence northerly along the westerly lines of Herkimer county to its junction with the southwesterly line of Saint Lawrence county; thence westerly along said southwesterly line of Saint Lawrence county to the most westerly corner of township fourteen, great tract three, Macomb's purchase; thence easterly along the northerly line of said township fourteen to the northeast corner

¹ See IV, 5b ¶1.

² See IV, 9.

³ See IV, 9, 10.

⁴ For sec. 62, in full, containing all of these "words and phrases," see Table of Acts, on p. 38.

⁵ See III, 3a.

¹ The several administrative officers who are concerned in these duties are the commissioner, deputy commissioner (see I, 3, 9), superintendent of forests (see I, 16), assistant superintendent of forests (see I, 17), and, when specifically provided, such other officers as may be designated. For additional duties of these officers concerning forestry taxation under act 246, L. 1912, see that act in the Appendix, p. 35.

PART A—Continued.]

thereof; thence northerly along the west line of township thirteen, great tract three, Macomb's purchase, to the northwest corner of said township thirteen; thence east along the north line of said township thirteen and the south line of township ten, tract and purchase aforesaid, to the southwest corner of the southeast quarter of said township ten; thence north along the west line of the said southeast quarter of the aforesaid township ten and the west line of the northeast quarter thereof to the north line of said township; thence east along said north line to the west line of township seven, great tract two, Macomb's purchase; thence northerly along the west line of township seven aforesaid to the northwest corner of the township; thence easterly along the northerly lines of townships seven and eight, great tract two, Macomb's purchase, to the southwest corner of township twelve of said great tract two; thence northerly along the west line of township twelve to the northwest corner of lot one in the south half of said township; thence easterly along the north line of said south half of said township twelve to the west line of the county of Franklin; thence north along the west line of the county of Franklin to the northwest corner of the south half of township thirteen of great tract one, Macomb's purchase; thence easterly along the northerly line of the south half of townships thirteen, fourteen and fifteen of said great tract one, Macomb's purchase, to the west line of the old military tract; thence south along said west line to the northwest corner of township ten of said old military tract; thence easterly along the north line of said township ten to the west line of Clinton county; thence southerly along the west line of Clinton county to the north line of Essex county; thence easterly along the north line of Essex county to the northeast corner of the town of Wilmington; thence along the east and easterly line of the town of Wilmington to the intersection with the north line of the town of Keene; thence east to the northeast corner of said town of Keene; thence southerly along the easterly line of the town of Keene to the southeast corner thereof; thence easterly along the northerly line of the town of North Hudson to the most northeasterly corner of the said town; thence southerly along the easterly lines of the towns of North Hudson and Schroon to the southeast corner of the said town of Schroon; thence westerly along the southerly line of the towns of Schroon and Minerva to the northeasterly corner of Leggett's survey of the southwest quarter of township fourteen of Totten and Crossfield's purchase; thence southeasterly along the line of Leggett's survey to the southerly line of said township fourteen; thence southwesterly along the line of Leggett's survey, being the southerly line of said township fourteen, to the most southerly corner of said township; thence southeasterly along the easterly line of township thirteen and the westerly line of township twelve, to the southeasterly corner of lot twenty-five of township eleven of said Totten and Crossfield's purchase; thence southwesterly along the southerly line of lots twenty-five, twenty-six,

twenty-seven and twenty-eight to the southwesterly corner of said lot twenty-eight; thence southeasterly along the easterly lines of lots forty-four, fifty-three, sixty-eight, seventy-seven and five of said township eleven, and of lots nine, twenty-one, thirty, thirty-seven and forty of the gore between township eleven of Totten and Crossfield's purchase and the Dartmouth patent and of lot five of ranges six, seven, eight, nine and ten of the Dartmouth patent, great tract, to the southeasterly corner of lot five of said range six of said patent in Warren county; thence westerly along the southerly line of said range six of said Dartmouth patent to the northeasterly line of Palmer's purchase; thence southeasterly along the easterly line of said Palmer's purchase to the most easterly corner of the middle division of said purchase; thence southwesterly along the southerly line of the said middle division of Palmer's purchase through Saratoga county to the easterly boundary of the town of Hope in Hamilton county; thence southerly along the east line of the town of Hope to the place of beginning. * * *.

3. **Catskill park.**—* * * [The following is a description of the boundaries of lands constituting the Catskill park.—]Beginning in Ulster county at the southeasterly corner of great lot five of the Hardenburgh patent; thence running northwesterly along the southerly boundary of said great lot five through Sullivan county to the east branch of the Delaware river in Delaware county; thence along the southerly bank of said east branch of the Delaware river to the Ulster and Delaware railroad at the village of Arkville; thence along the said Ulster and Delaware railroad easterly to the line between the counties of Delaware and Ulster; thence northeasterly along that line to the southerly line of Greene county; thence northwesterly along the southerly line of Greene County to the line between the towns of Halcott and Lexington; thence northerly along the easterly line of the town of Halcott to the line between great lots twenty and twenty-one of the Hardenburgh patent; thence northerly along said line to the south bank of the Batavia-kill; thence along the southerly bank of the Bataviakill easterly to the west line of the state land tract; thence northerly, easterly and southerly along the line of the said state land tract to the line between the towns of Cairo and Catskill; thence southwesterly along said town line to the easterly line of the town of Hunter; thence southerly along the said easterly line of the town of Hunter to the line of the Hardenburgh patent; thence easterly, southerly and westerly along the general easterly line of the Hardenburgh patent to the line between the towns of Olive and Rochester of Ulster county; thence easterly on said line to the point where the Mettakahonts creek crosses the same flowing easterly; thence southwesterly parallel with the northwesterly line of the town of Rochester to the line between the towns of Rochester and Wawarsing; thence westerly and southerly along the line of the Hardenburgh patent to the place of beginning, * * *.

4. **Saint Lawrence reservation.**—All that part of the river Saint Lawrence lying and being within the state,

PART A—Continued.]

with the islands therein, and all that portion of Lake Ontario adjacent to Jefferson county, including Chaumont bay, Guffins bay, Black river bay and Henderson bay, with the islands therein, and such lands along the shore thereof as are now owned by, or shall hereafter be acquired by the state, is continued as an international park which shall be known as the "Saint Lawrence reservation."

5. **John Brown farm.**—All that certain tract of land in the Adirondack park, known as the "John Brown farm," in the town of North Elba, in the county of Essex and state of New York, being the greater part of lot number ninety-five, Thorn's survey, of township number twelve, Old Military Tract, now owned by the state pursuant to a deed of gift made and executed the twenty-ninth day of March, eighteen hundred and ninety-five, by Henry Clews and Lucy Madison Clews, his wife, to the people of the state of New York, shall be and continue to be dedicated and used for the purposes of a public park or reservation forever.

6. **Cuba reservation**¹ shall include all the lands owned by the state surrounding Cuba lake in the counties of Allegany and Cattaraugus.

7. **Person.**—Person includes a copartnership, joint-stock company or a corporation.

8. **Forest land.**—Forest land includes not only lands which may be covered with tree growth but also lands which are best adapted to forests.

9. **Forest fire.**—Forest fire is a fire which is not only burning forest or woodlands, but which if permitted to extend, would burn forest or upon forest lands.

10. **Fire towns.**—Fire towns are as follows: All towns in Hamilton county; the towns of Altona, Ausable, Black Brook, Dannemora, Ellenburg and Saranac, Clinton county; the towns of Andes, Colchester, Hancock and Middletown, Delaware county; the towns of Chesterfield, Elizabethtown, Jay, Keene, Lewis, Minerva, Moriah, Newcomb, North Elba, North Hudson, Saint Armand, Schroon and Wilmington, Essex county; the towns of Altamont, Belmont, Brighton, Duane, Franklin, Harriettstown, Santa Clara and Waverly, Franklin county; the towns of Bleecker, Caroga, Mayfield and Stratford, Fulton county; the towns of Hunter, Jewett, Lexington and Windham, Greene county; the towns of Ohio, Russia, Salisbury, Webb and Wilmurt, Herkimer county; the towns of Croghan, Diana, Greig, Lyonsdale and Watson, Lewis county; the towns of Forestport and Remsen, Oneida county; the towns of Corinth, Day, Edinburg and Hadley, Saratoga county; the towns of Clare, Clifton, Colton, Fine, Hopkinton, Parishville, Piercefield, Pitcairn, Saint Lawrence county; the towns of Neversink, Rockland, Sullivan county; the towns of Denning, Gardiner, Hardenburgh, Olive, Rochester, Shandaken, Shawan-

gunk, Wawarsing and Woodstock, Ulster county; the towns of Bolton, Caldwell, Chester, Hague, Horicon, Johnsbury, Luzerne, Queensbury, Stony Creek, Thurman and Warrensburgh, Warren county; the towns of Dresden, Fort Ann and Putnam, Washington county. [C. L., sec. 62, preamble, subsecs. 2-10; * * *; L. 1916, ch. 451, sec. 1.]

ADDITIONAL TAXATION ACT (CH. 249, L. 1912).¹

Section 1. Article one of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," is hereby amended by adding at the end a new section to be section sixteen, and to read as follows:

§16. **Exemption and reduction in assessment of lands planted with trees for forestry purposes.**—Whenever the owner of lands, to the extent of one or more acres and not exceeding one hundred acres, shall plant the same for forestry purposes with trees to the number of not less than eight hundred to the acre, and whenever the owner of existing forest or brush lands to the extent of one or more acres and not exceeding one hundred acres, shall underplant the same with trees, to the number of not less than three hundred to the acre, and proof of that fact shall be filed with the assessors of the tax district or districts in which such lands are situated as hereinafter provided, such lands so forested shall be exempt from assessment and taxation for any purpose for a period of thirty-five years from the date of the levying of taxes thereon immediately following such planting, and such existing forest or brush lands so underplanted shall be assessed at the rate of fifty per centum of the assessable valuation of such land exclusive of any forest growth thereon for a period of thirty-five years from the date of the levying of taxes thereon immediately following such underplanting. The owner or owners of lands forested as above provided, in order to secure the benefits of this section, shall file with the conservation commission an affidavit making the due proof of such planting or underplanting and setting forth an accurate description of such lands, the town and county in which the same are situated, the number of trees planted or underplanted to the acre and the number of acres so forested, which affidavit shall remain on file in the office of said commission. Upon the filing of such affidavit it shall be the duty of the conservation commission to cause an inspection of such forested lands to be made by a competent forester or other employee of said commission who shall make and file with said commission a written report of such inspection. If the commission is satisfied from the said affidavit and the report of inspection that the lands have been forested as above provided, in good faith and by adequate methods to produce a forest plantation, and are entitled to the exemption of assessment or to a reduction of assessment as provided in this section, it shall make and execute a certificate under the seal of its office, and file the same with the county treasurer of the county in which the lands so forested are located, which certificate shall set forth a description of the lands affected by this section, the

¹ In addition to the general provision made in Article IV of the conservation law for the control of certain park reservations by the commission (see III, 18), the care and administration of the Cuba reservation is also specifically vested in the commission by L. 1917, ch. 266, sec. 1, which amends sec. 50 of the C. L. by adding thereto subsec. 32. (See volume of Session Laws of 1917.)

¹ See also IV, p. 30, footnote 1.

PART A—Continued.]

area and owner or owners thereof, the town or towns in which the same are situated, the description upon the last assessment-roll which included said lands, the period of exemption or of reduction of assessment to which such lands are entitled and the date of the expiration of such exemption or reduction of assessment. Upon the filing of such certificate it shall be the duty of the county treasurer to file with the assessors of the tax district in which the lands described therein are located within ten days after the receipts thereof a certified copy of such certificate, and the assessors of such tax district shall place the lands according to the description contained in said certificate upon the next assessment-roll prepared for the assessment of lands within such tax district, and shall exempt, or reduce the assessment upon, the lands so described as hereinbefore provided, and shall insert upon the margin of said assessment-roll opposite the description of said lands, a statement that in accordance with the provisions of this section of the tax law said lands are exempt from taxation or that the assessment thereof is reduced fifty per centum as the case may be and insert also in the margin the date of the expiration of such exemption or reduction of assessment and such lands shall continue to be exempted, assessed and carried in such manner upon the assessment-rolls of such town until the date of the expiration of such exemption or reduction of assessment. Lands which have been forested as above provided within three years prior to the taking effect of this section may come within its provisions if application therefor is made to the conservation commission within one year from the time when this section takes effect, but except as provided by this section the period of exemption or reduction as certified to by the conservation commission shall not exceed the period of thirty-five years from the date of the original planting. Lands situated within twenty miles of the corporate limits of a city of the first class, or within ten miles of the corporate limits of a city of the second class, or within five miles of the corporate limits of a city of the third class, or within one mile of the corporate limits of an incorporated village shall not be entitled to the exemption or reduction of assessment provided for by this section. In the event that lands exempted or reduced in taxation as above provided shall, by act of the owner or otherwise, at any time during the period of exemption or reduction in taxation cease to be used exclusively as a forest plantation to the extent provided by this section to entitle such land to the privileges of this section, the said exemption and reduction in taxation provided for in this section shall no longer apply and the assessors having jurisdiction are hereby empowered and directed to assess the said land at the value and in the manner provided by the tax law for the general assessment of land. If any land exempted under this section continues to be used exclusively for the growth of a planted forest after the expiration of the period of exemption provided hereby, the land shall be assessed at its true value and the timber growth thereon shall be exempt from taxation, except if such timber shall be cut before the land has been duly assessed and taxes regularly paid for five consecutive

years after the exemption period has expired, such timber growth shall be subject to a tax of five per centum of the estimated stumpage value at the time of cutting, unless such cuttings are thinnings for stimulating growth and have been made under the supervision of the conservation commission. Whenever the owner shall propose to make any cutting of such timber growth for a purpose other than for thinning as above provided, he shall give thirty days' notice to the assessors of the tax district on which the land is located, who shall forthwith assess the stumpage value of such proposed cutting, and such owner shall pay to the collector of the town in which such land is situated before cutting such timber five per centum of such assessed valuation. If such owner shall fail to give such notice and pay such taxes he shall be liable to a penalty of three times the amount of such tax, and the supervisor of the town may bring an action to recover the same for the benefit of the town in any court of competent jurisdiction.

EXCERPTS FROM THE PENAL LAW.¹

NOTE.—Although the following sections appear to conflict, in a measure, one with another, they are, nevertheless, both incorporated into and constitute a part of the Penal Law, as amended through 1917. However this may be, the enactments of the Conservation Law upon the same subjects doubtless materially modify, if they do not nullify, the operation of these provisions, as far as they concern forests. They are, however, included here for the benefit of such investigators as may desire to work out the interrelation of the several provisions in more detail than appears to be necessary in this compilation.

SEC. 1421 OF THE PENAL LAW, AS AMENDED BY LAWS 1910, CH. 474.

§1421. Burning crops or timber, how punished.—A person who, under circumstances not amounting to arson in any of its degrees:

1. Wilfully burns or sets fire to any grain, grass or growing crop, or standing timber, or to any building, fixtures or appurtenances to real property of another, or
2. Wilfully sets fire to, or assist[s] another to set fire to any wild, waste or forest lands, belonging to the state or to another person whereby such forests are injured or endangered;

Is guilty of felony and is punishable by imprisonment for not more than ten years or by a fine of not more than two thousand dollars, or by both.

SECTION 1900 OF THE PENAL LAW.

§1900. Negligently managing and refusing to extinguish fires.—A person who:

1. Wilfully or negligently sets fire to, or assists another to set fire to any waste or forest lands belonging to the state or to another person whereby such forests are injured or endangered; or,
2. Negligently sets fire to his own woods, by means whereof the property of another is endangered; or,
3. Negligently suffers any fire upon his own land to extend beyond the limits thereof; or,

¹ The penal law is contained in L. 1909, ch. 88, and its equivalent, ch. 40 of the consolidated laws.

EXCERPT FROM THE CONSERVATION LAW.

SALARIES AND RATINGS OF FOREST RANGERS.¹

PART A—Continued.]

4. Having been lawfully ordered to repair to a place of a fire in the woods, and to assist in extinguishing it, omits without lawful excuse to comply with the order,

Is guilty of a misdemeanor.

Such forest rangers [are hereby authorized] as may be necessary, to be employed in the fire towns, who shall be rated by the commission on the basis of merit and efficiency in three grades to be known as the first, second and third grades. Such forest rangers shall receive monthly salaries of seventy-five dollars; provided, however, that each forest ranger who shall be rated in the first grade shall receive increased salary at the rate of one hundred dollars per annum, and for each year thereafter in which he shall so qualify he shall receive a like increase or any part

thereof until his salary is at the rate of one thousand three hundred dollars per annum, but the commission shall have the power in its discretion, for cause shown, to cancel such increase or any part thereof on the failure of any ranger receiving such increase to qualify for the first grade in any year. Rangers rated in the second grade shall receive increased salary at the rate of fifty dollars per year, in the year in which they shall so qualify, and while in said second grade, provided, however, that the salary of a ranger rated in the second grade shall not exceed the rate of ten hundred dollars per year, unless such increased salary shall have accrued by reason of his having been rated in the first grade. [C. L., sec. 51, subsec. 11; * * *; L. 1918, ch. 421, sec. 1.]

¹ See II, 10; also, p. 1, footnote 2.

TABLE OF ACTS.

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z Indicates the omission of matter irrelevant to forestry.

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^z Indicate, the omission of matter irrelevant to forestry.

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z Indicates the omission of matter irrelevant to forestry.

STATE FORESTRY LAWS LEAFLETS ALREADY PUBLISHED.¹

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2. Louisiana.	8. Idaho.	14. Minnesota.	20. New Hampshire.
3. North Carolina.	9. Oregon.	15. Montana.	21. Colorado.
4. Maryland.	10. Wyoming.	16. Illinois.	22. West Virginia.
5. Missouri.	11. New Jersey.*	17. Ohio.	
6. Texas.	12. Washington.	18. Connecticut.	

¹ The laws of other States, so far as they have been compiled, are available only for loan, through the Forest Service Library, Washington, D. C.

* Indicates that the supply is exhausted.

